

97-84066-10

Standard Statistics
Company

Federal income taxes for
1921

New York

c1921

97-84066-10
MASTER NEGATIVE #

COLUMBIA UNIVERSITY LIBRARIES
PRESERVATION DIVISION

BIBLIOGRAPHIC MICROFORM TARGET

ORIGINAL MATERIAL AS FILMED - EXISTING BIBLIOGRAPHIC RECORD

308	
Z	Standard statistics company, inc., <i>New York.</i>
Box 177	Federal income taxes for 1921 ... New York, Stand- ard statistics co., inc., 1921.
	64 p. 20 ¹ cm.
	1. Income tax—U. S.—Law.
Library of Congress	HJ4652.S6 1921 21-21873
Copyright A 630492	(2) ONLY ED

RESTRICTIONS ON USE: Reproductions may not be made without permission from Columbia University Libraries.

TECHNICAL MICROFORM DATA

FILM SIZE: 35mm

REDUCTION RATIO: 9:1

IMAGE PLACEMENT: IA (IIA) IB IIB

DATE FILMED: 4/28/97

INITIALS: TLM

TRACKING # : 23232

FILMED BY PRESERVATION RESOURCES, BETHLEHEM, PA.

308

Z

Box 177

FEDERAL INCOME TAXES FOR 1921

A brief popular review of
the Law and a simple illus-
trated analysis of the changes
affecting income for 1921.

Compliments of

PAINE, WEBBER & COMPANY

(Established 1880)

BOSTON

NEW YORK

CHICAGO

Federal Income Taxes for 1921

CONTENTS

Index.

Part I—Income Subject to Tax.

Part II—Return and Payment of Tax.

Part III—Persons Liable to Tax.

Part IV—Corporations.

Appendix.

Prepared and published by
STANDARD STATISTICS CO., Inc.
NEW YORK

Copyright 1921. Standard Statistics Co., Inc.

INTENTIONAL SECOND EXPOSURE

Federal Income Taxes for 1921

CONTENTS

Index.

Part I—Income Subject to Tax.

Part II—Return and Payment of Tax.

Part III—Persons Liable to Tax.

Part IV—Corporations.

Appendix.

Prepared and published by
STANDARD STATISTICS CO., Inc.
NEW YORK

Copyright 1921, Standard Statistics Co., Inc.

FOREWORD

This booklet contains the income and excess profits tax provisions of the Revenue Act of 1921, paraphrased and classified, with explanatory and illustrative text based on rulings of the Internal Revenue Bureau.

The booklet is divided into four parts as follows:

PART I. deals with income subject to tax and proceeds from a consideration of gross income of various kinds and the application of the authorized deductions and credits, to the determination of net income.

PART II. deals with the return and payment of the income tax and proceeds to the classification of the rates of tax and to the computation of the tax so that it may be properly reported and paid. The administrative measures and requirements designed to assure the payment of the tax are described briefly.

PART III. deals with the persons liable to tax and proceeds with an explanation showing in what respects the situation of each class of persons as regards the tax is unlike that of typical citizens or residents. This part of the booklet necessarily is very brief, as the aim in its preparation was primarily to assist the citizen or resident taxpayer.

PART IV. deals with corporations and proceeds to the determination of net income of corporations, with the consideration of the component parts making up invested capital and to the computation of the income and excess profits taxes of corporations.

The arrangement of the booklet has been planned to simplify the work of preparing returns and to make it as easy as possible for a taxpayer to find what he ought to read and to reject what he need not read. A great majority will be little interested in Part III. and only those preparing corporation returns need be concerned with Part IV. A Data Sheet has been included in the appendix, so that by noting the appropriate paragraphs indicated thereon applicable in a particular instance, it will be unnecessary to read all of Part I.

INDEX

	Paragraph		Paragraph
Accounting:		Depreciation:	
Method of.....	33	Deduction.....	18, 74
Period changed.....	34	Devises:	
Allens:		Property acquired by,	
Credit for foreign taxes.....	24	Exempt income.....	7
Amortization:		Gain or loss on sale.....	3
Deduction.....	18, 74	Dividends:	
Bad debts:		Allocation.....	92
Deduction.....	17, 74	Credit, individuals.....	23
Bank Deposits:		Deduction, corporations.....	74
Tax not paid at source.....	46	Definition.....	5
Beneficiary:		Liquidating.....	5
When tax payable by.....	62	Paid in stock.....	6
Bequests:		Estates and Trusts:	
Exempt from tax.....	7	Returns.....	62
Gain or loss on sale of.....	3	Excess Profits Tax:	
Bonds:		Credit.....	81
Interest paid to purchase		Exemptions from.....	78
or carry U. S. bonds.....	11	Invested capital.....	85
Withholding tax on interest.....	47	Rates.....	72
Bonuses to employees.....	10	Returns.....	82
Capital:		Exchanges of property:	
Distribution of.....	5	Basis for determining gain	
Expenditures.....	74	or loss.....	4
Compensation:		Exemptions:	
Loss of property.....	13	Corporations exempt.....	69, 78
Personal services.....	10	Foreign dividends.....	5
State employees and officers.....	2	Income exempt.....	7
Computation:		Interest exempt.....	7, 8
Credits.....	23, 73	Personal.....	23
Losses.....	13	Expenses:	
Tax.....	29, 96	Deductible.....	10
Corporations:		Personal and family.....	22
Affiliated.....	67	Fiduciaries:	
Credit for foreign taxes.....	76	Returns by.....	62
Credits in computing net		Foreign Corporations:	
income.....	73	Payment of tax.....	60
Deductions allowed.....	74	Foreign Countries:	
Exempt.....	69, 78	Taxes paid to.....	24, 76
Foreign.....	60	Foreign Items:	
Gross income.....	2, 71	Collection.....	45
Incorporation to evade		Gain or Loss:	
surplus.....	95	Basis for determining.....	3, 4
Net income.....	71	Gifts:	
Personal service.....	64	Charitable.....	20, 63, 74
Rates of tax.....	72	Exempt income.....	7
Reorganization, merger		Property acquired by, sale	
and consolidation.....	89	of.....	3
Returns.....	82	Gross Income:	
Credits:		Corporations.....	2, 71
Beneficiaries.....	62	Individuals.....	2
Corporations.....	73	Nonresident aliens.....	58
Dependents.....	23	Partnerships.....	63
Estates or trusts.....	62	Income:	
Foreign taxes.....	74	Exempt from tax.....	7
Net income.....	24, 73	Foreign governments.....	68
Nonresident aliens.....	58	Gross.....	2, 71
Partners.....	63	Net.....	23, 71
Tax withheld.....	25	Of states.....	68
Deductions:		Paid to nonresident aliens.....	58
Amortization.....	15	United States possessions.....	61
Bad debts.....	17	Incorporation of individual	
Charitable contributions.....	20	or partnership business.....	26
Corporations.....	19	Insurance:	
Depletion.....	18	Companies.....	66
Depreciation.....	18, 74	Life.....	7
Expenses.....	11	Interest:	
Interest.....	16	Deductible.....	11
Losses.....	11	Exempt from tax.....	7
Net losses.....	16	Inventories.....	3
Partnerships.....	63	Invested capital.....	85
		Items not deductible.....	22
		Liberty Bonds:	
		Exemptions simplified.....	8
		Interest on money bor-	
		rowed to purchase.....	11

INDEX

Paragraph	Paragraph
Life Insurance:	Part of year..... 34
Premiums not deductible..... 22	Personal service corpora- 64
Proceeds of exemption..... 7	tion..... 64
Return of premiums, ex- 36, 82	Place for filing..... 56
emption..... 7	Privacy of..... 83
Losses:	Stockholders' privilege in 83
Deductible..... 13	examining..... 53
Net loss..... 16	Understatement in..... 34
Wash sales..... 15	When accounting period 34
Municipal Bonds:	changed..... 36, 82
Exemption of interest..... 7	When to be filed..... 51
Net Income:	Withholding..... 3
Computation of..... 33	Sales:
Credits against..... 23, 73	Determination of gain or 3
Estates and trusts..... 58	loss on..... 7
Nonresident aliens..... 63	State Bonds:
Partnerships..... 16	Interest exempt..... 6
Net losses..... 58	Stock:
Nonresident Aliens:	Dividends..... 4
Credits..... 50, 58	Issued for property..... 4
Income paid to..... 50	Surtax:
Payment of tax at source..... 58	Corporations to prevent 65
Personal exemption..... 59	Imposition of..... 28, 31
United States possessions	Rates of..... 47
Normal Tax:	Tax:
Credits..... 23, 73	Withholding, on bond in- 47
Rates..... 28, 72	terest..... 7, 26
Ownership certificates..... 63	Tax-exempt securities..... 55
Partnerships..... 38	Taxes:
Payment of Taxes:	Agreement as to amount 42
Place of..... 41	of taxes due..... 62
Receipts for..... 38	Appeal..... 12
Time of..... 42	Assessment in case of de- 55
Underpayments..... 53, 83	cedent's estate..... 24, 76
Penalties..... 2, 7	Deductible..... 30
Pensions..... 23	Final determination of..... 75
Personal exemption..... 59, 61	Foreign, credit of..... 46
Personal Service Corporations:	Husband and wife..... 40
Tax in case law is declared 64	Income exempt from..... 39
Invalid..... 59, 61	Paid on bond interest..... 46
Possessions of U. S..... 72	Payment of..... 40
Rates of Tax:	At source..... 42
Corporations..... 28	By check or United 42
Normal tax on individuals 31	States securities..... 62
Surtax on individuals..... 84	In case of fiscal year..... 25
Refunds:	Upon recomputation..... 10
Inadequate deductions in 43	When payable by ben- 62
previous years..... 43	eficiary..... 25
Time for filing claims..... 55	Withheld, as a credit..... 10
Regulations:	Traveling expenses..... 55
Retroactive effect of..... 21	Treasury Decisions:
Replacement Fund:	Retroactive effect of..... 7
Property involuntarily 21	United States Bonds:
converted into cash..... 17	Exemption of interest..... 23, 73
Reserves:	Interest as credit..... 8
Bad debts..... 21	Victory notes..... 7
Replacements..... 87	War Finance Corporation 7
Returns:	Bonds:
Consolidated..... 82	Exemption of interest..... 23, 73
Corporations..... 37	Interest as credit..... 7, 22
Extension of time for 15	War Risk Insurance..... 47
filing..... 62	Wash sales..... 50
Fiduciary..... 26	Withholding:
Individual..... 26	Nonresident aliens..... 51
Husband and wife..... 26	Returns..... 47
Taxed as a corporation..... 44	Tax on bond interest..... 25
Information..... 58	Tax withheld, as a credit 49
Nonresident aliens..... 63	Tax-free covenant bonds..... 35
Partnership..... 26	Year in which items to be 35
Taxed as a corporation.....	accounted for.....

PART I

INCOME SUBJECT TO TAX

1.—THE REVENUE ACT OF 1921.

The Revenue Act of 1921 is a new and complete tax law. It re-enacts such sections of the Revenue Act of 1918 as are to remain in force, and its new provisions incorporate many changes and additions. The Revenue Act of 1918, which has been in force for 1918, 1919 and 1920, is repealed.

The provisions embodied in the new Revenue Act of 1921 are of two kinds: First, those that affect income for 1921, and second, those which become effective as of January 1, 1922 and thus will affect income for 1922 and subsequent years. The subject matter of this book covers the provisions of the new Revenue Act of 1921 as they affect income for 1921.

The statute imposes an income tax on individuals, including a normal tax and a surtax. The tax is upon net income after deducting from gross income the allowable deductions. In certain cases credits are allowed against net income and against the amount of the tax. The tax is payable upon the basis of returns rendered by the persons liable thereto, except that in some instances it is to be paid at the source of the income.

There are special provisions which deal with the effect of the tax on nonresident alien individuals, partnerships and personal service corporations, estates and trusts and the stockholders of corporations which unreasonably accumulate their profits. The statute also imposes an income tax at a fixed rate and an excess profits tax on certain corporations. (*Excess profits tax repealed, effective 1922*).

2.—GROSS INCOME.

Gross income includes gains, profits and income derived from salaries, wages or compensation for personal services, including the compensation of federal officers and employees received as such, of whatever kind and in whatever form paid, or from professions, vocations, trades, businesses, commerce, or sales or dealings in property, whether real or personal, growing out of the ownership or use of or interest in such property; also from interest, rent, dividends, securities or the transaction of any business carried on for gain or profit, or gains or profits and income derived from any source whatever.

The term "income" includes profit gained through sale or conversion of capital assets, also gains realized by a single isolated sale of capital assets as well as from sales by one engaged in buying and selling as a business. *Merchants Loan and Trust Company v. Smetanka*.

Two classes of items of income, however, are excluded from statutory gross income, those specifically mentioned in the statute as not included in gross income and as exempt from income taxation, and those which by reason of other statutes or the federal Constitution itself must be regarded as implicitly to be excluded. The first class includes the proceeds of life insurance policies, under certain circumstances; the value of property ac-

FEDERAL INCOME TAXES FOR 1921

quired by gift or by will or descent; interest upon certain governmental obligations; and income received by special classes of persons. The second class includes dividends received on the stock of federal reserve banks, and the compensation paid their officers and employees by states. For instance, compensation paid by a state to an officer of the National Guard is exempt from tax, but compensation paid by the Federal Government to such officer for services while engaged in field training or at instruction camps is not exempt.

A lump sum received by an employee from a former employer upon the termination of his employment, as an expression of its appreciation of his long and faithful service, is in the nature of additional compensation and must be included by the employee in computing his net income for the year in which received. Where a corporation paid excessive compensation to its officers they must report the full amount in their individual returns, even though such amount was disallowed as a deduction to the corporation.

3.—Basis for Determining Gain or Loss From Sale.

For the purpose of ascertaining the gain derived or loss sustained from the sale or other disposition of property, real, personal or mixed, the basis in the case of property acquired after February 28, 1913, is its cost or its last inventory value, if such property is included in inventory properly taken.

In the case of property acquired before March 1, 1913, under the Revenue Act of 1918, the basis for determining gain or loss was its fair market price or value as of that date. The Revenue Act of 1921, however, provides that where such property was acquired before March 1, 1913:

- (1) If its fair market price or value as of March 1, 1913, is more than cost, the gain is the excess of the sales price over such fair market price or value;
- (2) If its fair market price or value as of March 1, 1913, is less than cost, the loss is the excess of such fair market price or value over the sales price;
- (3) If the sales price is more than cost, but equal to or less (not more) than its fair market price or value as of March 1, 1913, no gain or loss results;
- (4) If the sales price is less than cost, but equal to or more (not less) than its fair market price or value as of March 1, 1913, no gain or loss results.

This rule may be stated simply as follows:

- (a) To determine gain, the basis is the March 1, 1913, value if more than cost;
- (b) To determine loss, the basis is the March 1, 1913, value if less than cost.

In illustration of the preceding, let it be assumed that an individual bought 12 shares of stock prior to March 1, 1913, each share costing 100 or par. The recognized value of these shares on March 1, 1913, was as follows: Share A, 120; share B, 80; share C, 120; share D, 80; share E, 90; share F, 100; share G, 120; share H, 100; share I, 120; share J, 90; share K, 120; share L, 90. All these shares were sold in 1921 at the following prices: Share A at 140, share B at 60, share C at 110, share D at 90, share E at 110, share F at 110, share G at 90, share H at 80, share I at 120, share J at 90, share K at 100, share L at 100. The gain or

PART I—INCOME SUBJECT TO TAX

loss in each case, in accordance with the provisions of the law just explained, is then indicated in the following table:

Share of Stock	Cost	March 1, 1913, Value	Sales Price	Gain	Loss
A -----	100	120	140	20	---
B -----	100	80	60	---	20
C -----	100	120	110	None	None
D -----	100	80	90	None	None
E -----	100	90	110	10	---
F -----	100	100	110	10	---
G -----	100	120	90	---	10
H -----	100	100	80	---	20
I -----	100	120	120	None	None
J -----	100	90	90	None	None
K -----	100	120	100	None	None
L -----	100	90	100	None	None

In the case of property acquired by gift after December 31, 1920, the basis for determining gain or loss on a sale is the same as the property would have in the hands of the donor or the last preceding owner by whom it was not acquired by gift. In the case of the sale of property acquired by gift on or before December 31, 1920, or by bequest, devise or descent, the basis for determining gain or loss is the fair market price or value of such property at the time of acquisition.

Where a corporation sells assets acquired prior to March 1, 1913, for an amount in excess of their value on that date, such value being greater than their cost, the difference between the selling price and the value on March 1, 1913, is income subject to taxation. *Eldorado Coal and Mining Company v. Mager*. Where a taxpayer acquired property prior to March 1, 1913, and sold it after that date for a price in excess of its value on that date but less than its cost, he received no gain from the transaction, hence no income subject to taxation. *Goodrich v. Edwards*. Where a taxpayer sells property, acquired prior to March 1, 1913, for an amount in excess of its value on that date and also in excess of its cost, such value being less than its cost, only that part of the selling price which is above cost is gain and subject to taxation as income. Where a taxpayer sells property acquired prior to March 1, 1913, for an amount in excess of its value March 1, 1913, but equal to its cost, he receives no profit, hence no income subject to taxation. *Walsh v. Brewster*.

Inventories are to be taken according to rules and regulations prescribed by the Commissioner with the approval of the Secretary and on such basis as conforms as near as may be to the best accounting practice in the trade or business and as most clearly reflects the income. The rule applicable to all industries is that inventories should be taken on the basis of (a) cost, or (b) cost or market, whichever is lower.

4.—Gain or Loss From Exchanges of Property.

On an exchange of property for other property no gain or loss is recognized unless the property received in exchange has a readily realizable market value. Where property is exchanged for other property which has no readily realizable market value, together with money or other property which has a readily realizable market value, then the money or the fair market value of the property having such readily realizable market value received in exchange shall be applied against and reduce the basis of the

FEDERAL INCOME TAXES FOR 1921

property exchanged, and if in excess of such basis, shall be taxable to the extent of the excess.

In the following classes of exchanges no gain or loss is recognized even if the property received in exchange has a readily realizable market value: (1) when property held for investment or for productive use in trade or business (not stock in trade or property held for sale) is exchanged for property of a like kind or use; (2) when in the reorganization of corporations a person receives in place of any stock or securities owned by him stock or securities in a corporation a party to or resulting from such reorganization; (3) when (a person or) two or more persons transfer any property, real, personal or mixed, to a corporation and immediately after the transfer are in control of such corporation. When property is exchanged for property specified in (1), (2) and (3) as received in exchange, together with money or other property of a readily realizable market value other than that specified in (1), (2) and (3), the money or the fair market value of such other property received in exchange shall be applied against and reduce the basis of the property exchanged, and if in excess of such basis, shall be taxable to the extent of the excess.

Except as noted above, where property is exchanged for other property and no gain or loss is recognized, the property received is treated as taking the place of the property exchanged. This provision is applicable in the case of property involuntarily converted into cash (see paragraph 21) and also in the case of wash sales (see paragraph 15).

A person is, or two or more persons are, in control of a corporation when they own at least 80% of the voting stock and at least 80% of the total number of shares of all other classes of stock. Reorganization includes a merger, consolidation (including the acquisition by one corporation of at least a majority of the voting stock and at least a majority of all other classes of stock or of substantially all the properties of another corporation), recapitalization, or mere change in identity, form or place of organization.

5.—Dividends.

A "dividend" is any distribution, in cash or property, made by a corporation to its stockholders, out of its earnings or profits accumulated since February 28, 1913.

Any distribution made by a corporation is deemed to have been made from earnings or profits accumulated since February 28, 1913 (including any increase in value of property accrued since February 28, 1913), but any earnings or profits accumulated prior to March 1, 1913, may be distributed free of tax provided the earnings or profits accumulated since February 28, 1913, have first been distributed.

If any such tax-exempt distribution has been made, the loss (if any) on the sale of his stock by a distributee will be the excess of the cost or March 1, 1913 value of such stock over the sum of the amount realized from the sale thereof plus the aggregate amount of the tax-exempt distribution received by him thereon.

Any distribution (except out of earnings or profits or out of increase in value of property accrued before March 1, 1913) is to be applied against and reduce the cost or March 1, 1913 value for the purpose of ascertaining gain or loss on the sale or other disposition by the distributee of his stock.

A dividend is income to the stockholders as of the date when the cash or other property is unqualifiedly made subject to their demands.

PART I—INCOME SUBJECT TO TAX

Cash dividends received, while exempt from all normal tax, are taxable to the individual recipient at the surtax rates for the year in which received. Accordingly, dividends must be included as gross income, but they may be deducted as a credit in computing the normal tax.

6.—Dividends Paid in Stock.

In the case of *Towne v. Eisner* it was held by the U. S. Supreme Court that stock dividends were not taxed under the Revenue Act of 1913, which did not expressly refer to them, and *Macomber v. Eisner* decided by the Supreme Court, held that they are not taxable under the Revenue Act of 1916, although it expressly so provided. The provision in the Revenue Act of 1918 is, in effect, the same as in the Revenue Act of 1916, and specifically taxes stock dividends. In accordance with the later decision stock dividends are not subject to taxation under the Revenue Act of 1918. *The Revenue Act of 1921 does not tax stock dividends.*

If after the payment of a stock dividend a corporation proceeds to cancel or redeem its stock at such time and in such manner as to make the distribution and cancellation or redemption essentially equivalent to the distribution of a taxable dividend, the amount received in redemption or cancellation is to be treated as a taxable dividend to the extent of the earnings or profits accumulated by the corporation after February 28, 1913.

7.—INCOME EXEMPT FROM TAX.

The following items are exempt from income taxation and should not be included in gross income:

(1) Proceeds of life insurance policies paid upon the death of the insured. (Accordingly, amounts received as insurance upon the lives of officers or employees, by a taxpayer, upon the death of the insured do not constitute taxable income to the taxpayer; and the proceeds of life insurance policies paid to corporation beneficiaries are exempt).

(2) The amount received by the insured as a return of premium or premiums paid by him under life insurance, endowment or annuity contracts, either during the term or at the maturity of the term mentioned in the contract or upon surrender of the contract.

(3) Amounts received through accident or health insurance, or under Workmen's Compensation Acts, as compensation for personal injuries or sickness, plus the amount of any damages received, whether by suit or agreement, on account of such injuries or sickness.

(4) The value of property acquired by gift, bequest, devise, or descent (but the income from such property must be included in gross income.)

(5) Interest upon the obligations of a state, territory, or any political subdivision thereof, or the District of Columbia; or upon securities issued under the provisions of the Federal Farm Loan Act of July 17, 1916, or upon the obligations of the United States or its possessions; or bonds issued by the War Finance Corporation. In the case of obligations of the United States issued after September 1, 1917 (other than postal savings certificates of deposit), and in the case of bonds issued by the War Finance Corporation, the interest is exempt from tax only if and to the extent provided in the respective Acts authorizing the issue thereof, as

FEDERAL INCOME TAXES FOR 1921

amended and supplemented, and is excluded from gross income if and to the extent it is wholly exempt from income and profits taxation to the taxpayer.

(c) Amounts received under the War Risk Insurance and the Vocational Rehabilitation Acts or from war pensions from the United States.

Ministers of the gospel who are furnished parsonages rent free, as part of compensation, are no longer required to account for the rental value thereof.

The exemption of \$3,500 formerly allowed soldiers and sailors is repealed.

Federal income tax paid by an issuing corporation on its tax-free covenant bonds, in behalf of bondholders, need not be included as additional gross income by such bondholders.

8.—Liberty Bonds and Victory Notes.

The Revenue Act of 1921 simplifies the complicated tax exemptions authorized under the various Liberty bond and Victory note Acts. The provisions effective for 1921 as provided by the new law are as follows:

I. FOUR PER CENT AND 4½ PER CENT BONDS ARE EXEMPT FROM ALL FEDERAL, STATE AND LOCAL TAXATION, EXCEPT (a) ESTATE OR INHERITANCE TAXES, AND (b) FEDERAL INCOME SURTAXES AND PROFITS TAXES, AS FOLLOWS:

1. First Liberty Loan Converted 4 Per Cent Bonds of 1932-1947 (First 4s).
2. First Liberty Loan Converted 4½ Per Cent Bonds of 1932-1947 (First 4½s, issue of May 9, 1918).
3. First Liberty Loan Second Converted 4½ Per Cent Bonds of 1932-1947 (First 4½s, issue of October 24, 1918).
4. Second Liberty Loan 4 Per Cent Bonds of 1927-1942 (Second 4s).
5. Second Liberty Loan Converted 4½ Per Cent Bonds of 1927-1942 (Second 4½s).
6. Third Liberty Loan 4½ Per Cent Bonds of 1928 (Third 4½s).
7. Fourth Liberty Loan 4½ Per Cent Bonds of 1933-1938 (Fourth 4½s).
8. Victory Liberty Loan 4½ Per Cent Convertible Gold Notes of 1922-1923 (4½ Per Cent Victory Notes).

are exempt, both as to principal and interest, from all taxation now or hereafter imposed by the United States, any state, or any of the possessions of the United States, or by any local taxing authority, except (a) estate or inheritance taxes, and (b) graduated additional income taxes, commonly known as surtaxes and excess profits and war profits taxes, now or hereafter imposed by the United States, upon the income or profits of individuals, partnerships, associations, or corporations.

II. FOUR PER CENT AND 4½ PER CENT BONDS ARE ENTITLED TO LIMITED EXEMPTIONS FROM FEDERAL INCOME SURTAXES AND PROFITS TAXES, AS FOLLOWS:

Four Per Cent and 4½ Per Cent Liberty Bonds (but not 4½ Per Cent Victory Notes) are entitled to certain limited exemptions from graduated additional income taxes, commonly known as surtaxes, and excess profits and war profits taxes, now or hereafter imposed by the United States, upon the income or profits of

PART I—INCOME SUBJECT TO TAX

individuals, partnerships, associations or corporations, in respect to the interest on principal amounts thereof, as follows:

- \$5,000 in the aggregate of First 4s, First 4½s (issues of May 9 and October 24, 1918), Second 4s and 4½s, Third 4½s, Fourth 4½s, Treasury Certificates and War Savings Certificates.
- 30,000 of First 4½s (issue of October 24, 1918, only), until the expiration of two years after the termination of the war.
- 125,000 in the aggregate of First 4s, First 4½s (issues of May 9 and October 24, 1918), Second 4s and 4½s, Third 4½s, and Fourth 4½s, until the expiration of two years after the termination of the war.

\$160,000 Total possible exemptions from federal income surtaxes and profits taxes.

III. 3½ PER CENT BONDS AND 3% PER CENT NOTES ARE EXEMPT FROM ALL FEDERAL, STATE AND LOCAL TAXATION, EXCEPT ESTATE OR INHERITANCE TAXES, AS FOLLOWS:

1. First Liberty Loan 3½ Per Cent Bonds of 1932-1947.
2. Victory Liberty Loan 3% Per Cent Convertible Gold Notes of 1922-1923.

are exempt, both as to principal and interest, from all taxation (except estate or inheritance taxes) now or hereafter imposed by the United States, any state, or any of the possessions of the United States or by any local taxing authority.

Interest on an amount of bonds of the War Finance Corporation the principal of which does not exceed in the aggregate \$5,000 is exempt from income and excess profits taxes. This exemption is distinct from the similar exemption applicable to Liberty bonds and Treasury Certificates of Indebtedness.

9.—DEDUCTIONS FROM GROSS INCOME.

After the gross income has been determined, certain deductions from gross income are allowed in computing net income. These deductions will now be considered.

10.—Expenses.

All the ordinary and necessary expenses paid or incurred during the taxable year in carrying on any trade or business, including a reasonable allowance for salaries or other compensation for personal services actually rendered, and including rentals or other payments required to be made as a condition to the continued use or possession (in the case of individuals for purposes of the trade or business) of property to which the taxpayer has not taken or is not taking title or in which he has no equity, are allowable deductions.

Traveling expenses incurred in the pursuit of a trade or business (including the entire amount expended for meals and lodging) while away from home are deductible.

Gifts or bonuses to employees are allowable deductions from gross income when such payments are made in good faith and as additional compensation for the services actually rendered by the employees, provided such payments, when added to the stipulated salaries, do not exceed a reasonable compensation for the services rendered. Donations made to employees and others, which do not have in them the element of compensation, are considered gratuities and are not deductible from gross income. Bonuses received by employees, which partake of the nature of additional

FEDERAL INCOME TAXES FOR 1921

compensation, must be included in the gross income of the recipients, but when such bonuses or gifts are in reality gratuities and are not in the nature of compensation, then they need not be included in gross income when received.

Where an employer makes periodical payments to the workmen's compensation insurance fund of a state, such payments are allowable deductions. If, however, the employer maintains a benefit fund providing for the payment of such compensation, only the actual amount paid employees as compensation for injuries is a proper deduction.

11.—Interest.

All interest paid or accrued, within the taxable year, on indebtedness, may be deducted from gross income. All interest paid or accrued on money borrowed within the year to purchase or carry securities or obligations, the income from which is subject to tax, is a proper deduction. *All interest paid or accrued within the year on money borrowed to purchase or carry wholly tax-exempt obligations of the United States (except those originally subscribed for), such as Victory notes, Certificates of Indebtedness, etc., issued after September 24, 1917, is no longer an allowable deduction.* (See paragraph 22.)

12.—Taxes.

All taxes paid or accrued within the taxable year imposed (1) by the authority of the United States, except income, war profits and excess profits taxes, or (2) by the authority of any of its possessions or of any foreign country, except the amount of any income, war profits and excess profits taxes allowed as a credit, or (3) by the authority of any state or territory, or any county, school district, municipality or other taxing sub-division of any state or territory, except those assessed against local benefits of a kind tending to increase the value of the property assessed, may be deducted.

Taxes Imposed by

(a) United States

Except:

Income Tax
War Profits Tax
Excess Profits Tax

(b) U. S. Possessions

Except:

Income Tax
War Profits Tax
Excess Profits Tax

(Allowed as a credit)

(c) States or Political Subdivisions thereof

Except:

Taxes against Local Benefits

(d) Foreign Country

Except:

Income Tax
War Profits Tax
Excess Profits Tax

(Allowed as a credit)

Deductible

PART I—INCOME SUBJECT TO TAX

Taxes imposed against a taxpayer upon his interest as a stockholder in a corporation, which are paid by the corporation without reimbursement from him, are deductible by the corporation and not by the taxpayer. Estate and inheritance taxes accrue on the due date thereof except as otherwise provided by the law of local jurisdiction.

In the case of corporations issuing obligations containing a tax-free covenant no deduction from gross income is allowed for the payment of the income tax or any other federal tax paid pursuant to such tax-free covenant.

13.—Losses.

Losses sustained during the taxable year and not compensated for by insurance or otherwise, if incurred in trade or business, or if incurred in transactions entered into for profit, though not connected with trade or business, or if arising from fires, storms, shipwreck or other casualty, or from theft, are proper deductions in arriving at net income for the purposes of the tax. The foregoing refers to individuals. In the case of corporations, presumably because they have no private life apart from their business, all losses sustained during the taxable year and not compensated for by insurance or otherwise are deductible from gross income.

Losses arising from the destruction of or damage to property acquired prior to March 1, 1913, are to be computed on the basis of the fair market price or value as of that date.

Whether or not a transaction in which a loss occurs was entered into for profit is often a question of intention. A loss in the sale of a private residence may be deductible, if in fact the residence was constructed or purchased with the idea of making a profit on a subsequent sale. It makes no difference whether the property was originally acquired for the purpose of deriving an income from its use or for the purpose of resale at a profit.

14.—Examples of Losses.

No deduction can be taken on account of the shrinkage in value of an amount invested in foreign money due to a fall in the rate of exchange.

An amount paid to another as damages for personal injuries does not constitute a deductible loss from "other casualty", also amounts expended by an individual in defending a suit for damages caused by an automobile operated for personal convenience do not constitute a deductible loss.

A loss may be claimed by the owner of a business truck demolished in collision with a pleasure car, but not by the owner of the pleasure car; however, a loss sustained through the sale of an automobile appropriated to business uses primarily, but occasionally used for pleasure purposes, may be deducted.

15.—Losses on Wash Sales.

No losses are deductible which are claimed to have been sustained as the result of a sale or other disposition of stock or securities after the passage of the new act, where within thirty days before or after the date of such sale or disposition substantially identical property is purchased and the property so acquired is held by the taxpayer for any period after such sale or other disposition, unless such claim is made by a dealer in stock or securities and with respect to a transaction made in the ordi-

nary course of business. In the event of a partial reacquisition, a proportionate part only of the loss is deductible.

If a taxpayer sells securities at a loss, he is entitled to a deduction from gross income, even though he later repurchases securities of the same kind and amount. This, of course, assumes that there has been an absolute sale and that the taxpayer takes his chance for an appreciable period of time (30 days) of being able to purchase similar securities. If a selling order and a buying order were given simultaneously, the Internal Revenue Bureau would treat the transaction as merely colorable and as resulting in no deductible loss.

16.—Net Losses.

Losses not compensated by insurance are deductible for the year in which sustained, unless in order to clearly reflect income such losses are, in the opinion of the Commissioner, to be accounted for as of a different period.

Net losses for 1921 and subsequent years are deductible from income of the succeeding year or years. Net losses for 1920 are not deductible.

The new law provides that if for any year beginning with January 1, 1921, it appears upon the presentation of evidence satisfactory to the Commissioner that any taxpayer has sustained a net loss from the operation of a regular trade or business the amount thereof is to be deducted from the net income of the taxpayer for the succeeding year, and if the net loss is in excess of the net income for the succeeding year, the amount of the excess shall be allowed as a deduction in computing the net income for the next succeeding year. This provision is applicable to that part of a fiscal year ending and falling within 1921.

17.—Bad Debts.

In computing net income there are allowed as deductions from gross income debts ascertained to be worthless and charged off within the taxable year. A bad debt due from a relative is an allowable deduction. *A debt may be charged off in part, if recoverable only in part, and reasonable additions to reserves for bad debts may be deductible.*

Under the Revenue Act of 1918 worthless debts were deductible in full or not at all, but the new law authorizes the Commissioner to permit a deduction for debts recoverable only in part or, in his discretion, to recognize a reserve for bad debts. This change is in accord with good accounting practice.

It may be assumed, therefore, that where a taxpayer, as a matter of established business practice, sets up annually a reasonable reserve for bad debts, based upon experience, such reserve may be permitted as a deduction; but in such case debts actually written off on the books of the taxpayer will have to be charged against the reserve and not claimed as a deduction from gross income.

18.—Depreciation, Obsolescence and Amortization.

A reasonable allowance for the exhaustion, wear and tear of property used in trade or business, including a reasonable allowance for obsolescence, may be deducted from gross income. *Where property is acquired before March 1, 1913, depreciation is to be computed upon the basis of its fair market price or value as of that date.*

In the case of buildings, machinery, equipment acquired or vessels constructed or acquired on or after April 6, 1917, for the purpose of contributing to the prosecution of the war with Germany, there is allowed a reasonable deduction for the amortization of such part of the cost of such facilities or vessels as has been borne by the taxpayer *(provided claim therefor was made at the time of filing returns for the taxable years 1918, 1919, 1920 or 1921.)*

At any time before March 3, 1921 (this is three years after the termination of war with Germany) the Commissioner of Internal Revenue may, at the request of the taxpayer, make a re-examination of the taxpayer's returns in order to determine if proper allowance has been made for this item of amortization; and if upon re-examination it is found that the original deduction allowed was incorrect, the amount of taxes for the years affected will be redetermined and any tax which may be found to have been overpaid will be refunded or credited to the taxpayer.

Buildings under construction are not subject to depreciation. Items constituting a personal expense are not subject to a deduction for depreciation. Where properties leased must be returned to the lessor at the end of the term of the lease in the same condition as they were in at the date of lease, no deductions by the lessee for depreciation will be allowed. Where a residence rented out in part and occupied in part by the owner is sold, proper adjustment must be made for depreciation in connection with the portion of the property used for rental purposes.

The depreciation which may be deducted in determining net income is the decrease in intrinsic value due to wear and tear, decay, obsolescence, etc., of the physical property suffered during the taxable year as distinguished from the market value. *Nashville, Chattanooga & St. Louis R. R. Company v. The United States.*

19.—Depletion of Mines, Oil and Gas Wells, and Timber.

In the case of mines, oil and gas wells, other natural deposits or timber, a reasonable allowance for depletion and depreciation of improvements will be allowed according to the peculiar conditions in each case, based upon cost, including cost of development not otherwise deducted. In case of property acquired prior to March 1, 1913, the fair market value on that date may be taken in lieu of cost.

In the case of the above properties (except timber) discovered by the taxpayer on or after March 1, 1913, where the fair market value of the property is materially disproportionate to the cost, depletion allowance may be based upon the fair market value of the property at the time of discovery or within 30 days thereafter. In the case of leases, the deductions for depreciation and depletion allowed shall be equitably apportioned between the lessor and lessee.

20.—Charitable Contributions.

In computing net income a deduction from gross income is allowed individuals for contributions or gifts made within the taxable year to or for (1) the United States, a state, territory, political sub-division thereof, or the District of Columbia, for *exclusively public purposes*; (2) any corporation or *community chest, fund, or foundation* organized and operated exclusively for religious, charitable, scientific, *literary* or educational purposes,

FEDERAL INCOME TAXES FOR 1921

including posts of the American Legion and women's auxiliaries of such posts, or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private stockholder or individual; (3) the special fund for vocational rehabilitation authorized by Section 7 of the Vocational Rehabilitation Act.

The allowance for such contributions is limited to not exceeding 15 per cent of the individual taxpayer's net income as computed without the benefit of this deduction.

Corporations are not entitled to deduct contributions or gifts of the character described.

21.—Property Involuntarily Converted Into Cash.

The present privilege of establishing a replacement fund for property involuntarily converted into cash, as permitted in the old regulations, is embodied in the new law, which provides that *where property is involuntarily converted into cash as a result of its destruction, theft, seizure or condemnation, the taxpayer is permitted to omit or deduct the gain (or a proper proportion thereof) involuntarily realized, provided he proceeds in good faith to invest the proceeds of such conversion in the acquisition of similar property or in the acquisition of 80% or more of the stock of a corporation owning such property, or in the establishment of a replacement fund. This provision is to apply, as far as practicable, under prior Revenue Acts.*

22.—ITEMS NOT DEDUCTIBLE.

In arriving at net income for the purposes of the tax, the following items must not be deducted from gross income:

(1) Personal living or family expenses, such as cost of maintaining a home, servants' wages, family life insurance premiums, allowances made as gifts to dependents, cost of purchase and upkeep of pleasure automobiles, chauffeurs' hire, railroad commutation fares to and from place of business and similar items.

(2) Any amount paid out for new buildings, or for permanent improvements or betterments made to increase the value of any property or estate.

(3) Any amount expended in restoring property or in making good the exhaustion thereof for which an allowance is or has been made under the wear and tear or depreciation deduction.

(4) Premiums paid on any life insurance policies covering the life of any officer or employee or of any person financially interested in any trade or business carried on by the taxpayer when the taxpayer is directly or indirectly a beneficiary under such policy.

(5) Interest paid or accrued within the year on money borrowed to purchase or carry securities or obligations, the income from which is wholly exempt from tax, such as state or municipal bonds, etc.; and

(6) Interest paid or accrued on indebtedness incurred or continued to purchase or carry obligations of the United States *(except those originally subscribed for, and issued after September 24, 1917. See paragraph 11.)* issued prior to or after September 24, 1917.

PART I—INCOME SUBJECT TO TAX

Premiums paid on insurance under the War Risk Insurance Act are not deductible.

Where insurance was taken out by a taxpayer for the sole purpose of protecting a bank from which he had procured a loan, the premiums paid on the policy constitute an allowable deduction even though the insurance was not taken out until after the loan had been completed.

23.—CREDITS AGAINST NET INCOME.

The following credits are allowed against net income before the normal tax is computed:

(1) Amounts received by individuals as dividends from domestic corporations (other than corporations treated under paragraph 61), or from a foreign corporation when more than 50% of its gross income for the three-year period ending with the close of its taxable year preceding the declaration of such dividends was derived from sources within the United States.

(2) Amounts received as interest upon obligations of the United States and bonds issued by the War Finance Corporation, which have been included in gross income.

(3) A personal exemption of \$1,000 to a single person; or if head of a family, that is, actually supporting one or more persons in one household, \$2,000.

(4) A personal exemption of \$2,000 to a married person living with husband or wife.

(5) *A personal exemption of \$2,500 instead of \$2,000 to a married person or the head of a family whose total net income is not in excess of \$5,000.*

A husband and wife living together may receive but one personal exemption (either \$2,000 or \$2,500, as the case may be) against their aggregate net income, but if they make separate returns the personal exemption may be taken by either or divided between them.

Where there is a reduction of the personal exemption from \$2,500 to \$2,000 (either in the case of an individual return or in the case of a combined return of husband and wife), such reduction shall not operate to increase the tax, which would be payable if the exemption were \$2,500, by more than the amount of the net income in excess of \$5,000.

(6) *A credit of \$100 (instead of \$200 as before) for each person (other than husband or wife) dependent upon, and receiving his or her chief support from the taxpayer if such dependent is under 18 years of age or incapable of self-support because mentally or physically defective.*

The credits allowed in (3), (4), (5) and (6) are determined by the status of the taxpayer on the last day of his taxable period, except in the case of a decedent, whose status is determined at the time of death. Full credits are allowed a surviving spouse.

24.—CREDIT FOR FOREIGN TAXES.

Credits against net income indirectly affect the amount of the tax, but the credits against the tax itself directly affect its amount. Credit against taxes may be taken (1) in the case of a citizen of

the United States, the amount of any income, war profits or excess profits taxes paid during the taxable year to any foreign country or to any possession of the United States; (2) in the case of a resident of the United States, the amount of any such taxes paid to a possession of the United States; (3) in the case of an alien resident of the United States, the amount of any such taxes paid to any foreign country, provided the country of which such alien resident is a citizen or subject, in imposing such taxes allows a similar credit to citizens of the United States residing therein.

The term "foreign country" is held to mean the composite whole made up of all the subdivisions of a foreign state subject to the same central control. Each of the subdivisions, in this sense, is not a country, but a part of a country.

The credit for foreign taxes must not exceed the same proportion of the tax against which such credit is taken, which the taxpayer's net income from sources without the United States bears to his entire net income.

Credit is to be allowed only in case evidence satisfactory to the Commissioner is furnished as to all the facts necessary for computation. If credit for a foreign tax accrued but not paid is claimed by the taxpayer, the Commissioner, as a condition to the allowance of the same, may require a bond to be given by the taxpayer, and if there is a difference between the amount claimed and the amount finally paid, adjustment must be made accordingly.

Where the taxpayer makes a return for a fiscal year beginning in 1920 and ending in 1921, the credit for the entire fiscal year is to be determined under the provisions of this paragraph.

25.—CREDIT FOR TAX WITHHELD AT SOURCE.

In addition to the credit for taxes paid to foreign countries or to possessions of the United States, the income tax is to be credited with any amount of tax withheld at the source. Except in the case of nonresident alien individuals, partnerships composed in whole or in part of nonresident aliens, and foreign corporations having no office or place of business within the United States, this provision applies only in the case of the 2 per cent withheld from interest on bonds containing a tax-free covenant payable to individuals and partnerships. In other words, the amount of the federal income tax withheld and paid at the source in the case of such bond interest may be claimed as a credit against the total tax required to be paid by the bondholders, either individual or partnership. *Federal income tax paid by an issuing corporation on its tax-free covenant bonds, in behalf of bondholders, need not be included as additional gross income by such bondholders.*

PART II

RETURN AND PAYMENT OF TAX

26.—RETURNS.

Every individual having a net income for the taxable year of \$1,000 or over, if single or if married and not living with husband or wife, or the head of a family; or \$2,000 or over if married and living with husband or wife, is required to render a return, even though such individual may not necessarily be subject to tax. *Every individual having a gross income for the taxable year of \$5,000 or over, regardless of the amount of his net income, must file a return.* If the individual is unable to make his own return, the return should be made by a duly authorized agent or by the guardian or other person charged with the care of the person or property of such individual.

In any event, the return should set forth specifically the items of gross income, the allowable deductions and credits. *Taxpayers are no longer required to make a return of tax-exempt securities and the interest received therefrom.*

Any trade or business (in which capital is a material income-producing factor) owned by a partnership or individual and organized within four months after the passage of the new tax law as a corporation may exercise the option of being taxed as a corporation on the net income received from January 1, 1921, to the date of such organization. This option is not to be extended in the case of any business which realized in the taxable year 1921 less than 20% on the capital invested.

27.—Returns of Husband and Wife.

If the combined net income of husband and wife, living together, equaled or exceeded \$2,000, all such income must be reported, either on one return or on separate returns. *If a husband and wife living together have an aggregate gross income for the taxable year of \$5,000 or over, either separate returns or a joint return must be filed.* Separate returns must be filed if the husband and wife are not living together and the net income of either is \$1,000 or more.

If separate returns are made by husband and wife living together, the exemption (\$2,000 or \$2,500, as the case may be) may be divided between them, or the husband may take the full exemption and the wife pay the tax on her entire net income, or vice versa. The combined amount of exemption taken by husband and wife must not exceed \$2,000 or \$2,500, depending on the total net income.

If a husband and wife living together exercise the right to make a single joint return, then in such case the tax shall be computed on the combined income. Husband and wife living together may, at their option, file separate returns of income or a single joint return, and if the latter, a net loss (or any allowable deduction) of either may be applied against net income of the other. Where husband and wife have filed separate returns in the past they are

FEDERAL INCOME TAXES FOR 1921

not precluded from filing amended joint returns. Where a husband and wife clearly indicate on a single return form the net income of each, such return does not necessarily constitute a joint return. A husband and wife may file a joint return one year and separate returns the next year.

28.—RATES OF TAX ON INDIVIDUALS.

There shall be levied, collected and paid upon the net income of every individual citizen or resident of the United States a normal tax at the rate of 4 per cent upon the first \$4,000 of net income in excess of the personal exemption and credits and at the rate of 8 per cent upon the remainder; that is, 8 per cent upon the net income in excess of the first \$4,000 plus personal exemption and credits.

Where there is a reduction of the personal exemption from \$2,500 to \$2,000 (either in the case of an individual return or in the case of a combined return of husband and wife), such reduction shall not operate to increase the tax, which would be payable if the exemption were \$2,500, by more than the amount of the net income in excess of \$5,000.

In addition to the normal tax, there shall be levied, collected and paid for each taxable year upon the net income of every individual a surtax calculated at different percentages for different amounts of net income. The surtax is actually an additional tax, being levied in addition to the normal tax, and is referred to as either additional tax or surtax.

The surtax for 1921 is the same as it was for 1918, 1919 and 1920. (See paragraph 31.) In computing the surtax the taxpayer is not entitled to the credits against net income allowed for normal tax.

29.—COMPUTATION OF TAX: INDIVIDUALS.

Assume that a thrifty and versatile merchant doing business in a large town is interested in local business enterprises, buys and sells city and farm property and lends out money on interest. His tax will be computed as follows:

Gross Income

His gross income consists of the following items:

Profits as a merchant.....	\$60,000
Compensation as president of the local water company.....	3,000
Compensation as manager of the electric light company.....	2,000
Profit on sale of city property.....	3,000
Profit on sale of farm.....	10,000
Rents from city property.....	1,000
Rents from farm property.....	2,000
Interest on money lent.....	3,000
Dividends from corporation securities.....	6,000

Total gross income..... \$90,000

Deductions

He is allowed the following deductions from gross income:

Rent paid for store building.....	\$5,000
Pay of employees.....	10,000

PART II—RETURN AND PAYMENT OF TAX

Numerous incidental items necessary for the conduct of the business.....	\$2,000
State, county and local taxes for the year 1921.....	4,000
Loss from fire, less insurance.....	2,000
Debts ascertained to be worthless and charged off.....	2,000
Wear, tear, and depreciation.....	1,000
Gifts and contributions—Red Cross, \$1,000; Church, \$600; Y. M. C. A., \$400; college endowment, \$5,000; other contributions, \$1,000.....	8,000
Total deductions.....	\$34,000

Credits Against Net Income

For the purpose of the normal tax only he is allowed the following credits as a further reduction of the gross income:

Dividends received.....	\$6,000
\$2,000 as married man living with his wife and \$400 each for 5 dependent children.....	4,000
Total credits allowed.....	\$10,000

Exemptions

He received during the year the following sums which are not included in his gross income, and of which no account is taken in computing his tax.

Life insurance carried by his father.....	\$5,000
From bequest of his father.....	10,000
Refund of premiums on insurance.....	100
From accident and health insurance.....	1,000

Items Not Deductible

He is not allowed to deduct these items from gross income:

Personal, living, and family expenses.....	\$4,000
Improvements and betterments, adding to the value of the property.....	10,000
Repairs compensated for under the wear-and-tear allowance.....	1,000
Premiums on life insurance insuring to his benefit.....	1,000

Normal Tax

We are now ready to compute his normal tax:

Gross income.....	\$90,000
Deductions allowed.....	\$34,000
Credits allowed.....	10,000

Total items to be subtracted..... 44,000

Net amount subject to the normal tax..... \$46,000

He will pay normal tax on—

\$4,000 at the rate of 4 per cent.....	160
\$42,000 at the rate of 8 per cent.....	3,360
Total normal tax.....	\$3,520

FEDERAL INCOME TAXES FOR 1921

Surtax

The surtax is computed as follows:		
Gross income	-----	\$90,000
Deductions	-----	\$34,000
Credits (not allowed)	-----	
Total of items to be subtracted	-----	34,000
Net amount subject to surtax	-----	\$56,000
Surtax (see Table below)	-----	7,010

The surtax is computed on the same amount that the normal tax is computed upon, except that he is not allowed to deduct the credits. His gross income is \$90,000; his total deduction is \$34,000. This leaves an amount of \$56,000 upon which the surtax is to be calculated. The surtax begins at \$5,000. He will really pay surtax on \$51,000 only.

Total Tax		
His total tax will be:	-----	\$3,520
Normal tax	-----	7,010
Surtax	-----	
Total of tax	-----	\$10,530

30.—Tax of Husband and Wife.

Assume that a citizen who is married and living with his wife has an income of \$8,000 for the calendar year 1921: his tax would be computed as follows:

Net income	-----	\$8,000
Personal exemption	-----	2,000
Amount subject to normal tax	-----	\$6,000
Calculation of Normal Tax:		
4 per cent on first \$4,000	-----	\$160
8 per cent on balance of \$2,000	-----	160
Total normal tax	-----	\$320
Surtax or Additional Tax:		
Net income	-----	\$8,000
Exemption	-----	5,000
Amount subject to additional tax or surtax	-----	\$3,000
Calculation of Additional Tax:		
From \$5,000 to \$6,000—\$1,000 at 1 per cent	-----	\$10
From \$6,000 to \$8,000—\$2,000 at 2 per cent	-----	40
Total surtax	-----	\$50
Amount of Normal and Additional Tax Payable:		
Normal	-----	\$320
Surtax	-----	50
Total tax	-----	\$370

PART II—RETURN AND PAYMENT OF TAX

Assume that the taxpayer in the preceding illustration and his wife, living together, had a joint income of \$8,000, but of this amount \$5,000 was his income and \$3,000 was his wife's income. The tax, then, would be computed as follows:

In the form of a joint return:

Income of husband and wife	-----	\$8,000
Personal exemption	-----	2,000
Net income subject to normal tax	-----	\$6,000
Amount of normal tax (4 per cent on first \$4,000)	-----	\$160
8 per cent on balance of \$2,000	-----	160
Normal tax	-----	\$320
Surtax (as computed above)	-----	50

Total tax ----- \$370

If a husband and wife living together file a single joint return of income, such return is treated as the return of a taxable unit and the income disclosed by the return is subject to both normal and surtax as though the return were that of a single individual.

In the form of separate returns:

Wife's income	-----	\$3,000	Husband's income	-----	\$5,000
Husband and wife divide the personal exemption of \$2,000 (\$1,000 each).					
Wife	-----	\$3,000	Husband	-----	\$5,000
Share of exemption	-----	1,000	Share of exemption	-----	1,000
Amount taxable	-----	\$2,000	Amount taxable	-----	\$4,000
Husband, \$4,000 at 4 per cent	-----	\$160			
Wife, \$2,000 at 4 per cent	-----	80			

Total normal tax of husband and wife ----- \$240

No additional tax is due upon the income of either husband or wife, for neither his nor her income exceeds \$5,000 individually.

Apparently there is an advantage in filing separate returns in this case. However, there are instances in which there is an advantage to file a joint return. For example, if a husband or wife has allowable deductions for any taxable year in excess of his or her gross income for such year, such excess may, if the husband and wife are living together and a single joint return of income is filed, be deducted from the net income of the other spouse for the purpose of computing both the normal and surtax.

31.—ADDITIONAL TAX OR SURTAX RATES.

The additional tax rates are, from \$5,000 to \$6,000—1%; from \$6,000 to \$8,000—2%, and upon every \$2,000 additional up to \$100,000 the rate increases 1%, the rate between \$98,000 and \$100,000 being 48%; from \$100,000 to \$150,000—52%; from \$150,000 to \$200,000—56%; from \$200,000 to \$300,000—60%; from \$300,000 to \$500,000—63%; from \$500,000 to \$1,000,000—64%; and upon any income in excess of \$1,000,000—65%.

The additional tax on amounts (as shown in column B) of net income up to \$1,000,000 appears in tabulated form on the following page.

FEDERAL INCOME TAXES FOR 1921

Net Income	Amount Taxable	Taxed At	Amount Additional Tax	Additional Tax on Amount in Column B
A	B	C	D	E
\$5,000 to \$6,000	\$1,000	1%	\$10	\$10
6,000 to 8,000	2,000	2%	40	50
8,000 to 10,000	2,000	3%	60	110
10,000 to 12,000	2,000	4%	80	190
12,000 to 14,000	2,000	5%	100	290
14,000 to 16,000	2,000	6%	120	410
16,000 to 18,000	2,000	7%	140	550
18,000 to 20,000	2,000	8%	160	710
20,000 to 22,000	2,000	9%	180	890
22,000 to 24,000	2,000	10%	200	1,090
24,000 to 26,000	2,000	11%	220	1,310
26,000 to 28,000	2,000	12%	240	1,550
28,000 to 30,000	2,000	13%	260	1,810
30,000 to 32,000	2,000	14%	280	2,090
32,000 to 34,000	2,000	15%	300	2,390
34,000 to 36,000	2,000	16%	320	2,710
36,000 to 38,000	2,000	17%	340	3,050
38,000 to 40,000	2,000	18%	360	3,410
40,000 to 42,000	2,000	19%	380	3,790
42,000 to 44,000	2,000	20%	400	4,190
44,000 to 46,000	2,000	21%	420	4,610
46,000 to 48,000	2,000	22%	440	5,050
48,000 to 50,000	2,000	23%	460	5,510
50,000 to 52,000	2,000	24%	480	5,990
52,000 to 54,000	2,000	25%	500	6,490
54,000 to 56,000	2,000	26%	520	7,010
56,000 to 58,000	2,000	27%	540	7,550
58,000 to 60,000	2,000	28%	560	8,110
60,000 to 62,000	2,000	29%	580	8,690
62,000 to 64,000	2,000	30%	600	9,290
64,000 to 66,000	2,000	31%	620	9,910
66,000 to 68,000	2,000	32%	640	10,550
68,000 to 70,000	2,000	33%	660	11,210
70,000 to 72,000	2,000	34%	680	11,890
72,000 to 74,000	2,000	35%	700	12,590
74,000 to 76,000	2,000	36%	720	13,310
76,000 to 78,000	2,000	37%	740	14,050
78,000 to 80,000	2,000	38%	760	14,810
80,000 to 82,000	2,000	39%	780	15,590
82,000 to 84,000	2,000	40%	800	16,390
84,000 to 86,000	2,000	41%	820	17,210
86,000 to 88,000	2,000	42%	840	18,050
88,000 to 90,000	2,000	43%	860	18,910
90,000 to 92,000	2,000	44%	880	19,790
92,000 to 94,000	2,000	45%	900	20,690
94,000 to 96,000	2,000	46%	920	21,610
96,000 to 98,000	2,000	47%	940	22,550
98,000 to 100,000	2,000	48%	960	23,510
100,000 to 150,000	50,000	52%	26,000	49,510
150,000 to 200,000	50,000	56%	28,000	77,510
200,000 to 300,000	100,000	60%	60,000	137,510
300,000 to 500,000	200,000	63%	126,000	263,510
500,000 to 1,000,000	500,000	64%	320,000	583,510
Exceeding 1,000,000		65%		

PART II—RETURN AND PAYMENT OF TAX

32.—SCHEDULE OF INDIVIDUAL INCOME TAX 1921.

(Credit for dependents not included)

Net Income	\$1,000 Exemption			\$2,000 Exemption *			Net Income
	Normal Tax	Surat	Total Tax	Normal Tax	Surat	Total Tax	
\$1,000	\$ 0		\$ 0	\$ 0		\$ 0	\$1,000
2,000	40		40	0		0	2,000
3,000	80		80	0		0	3,000
4,000	120		120	80		80	4,000
5,000	160		160	120		120	5,000
6,000	240	\$ 10	250	160	\$ 10	170	6,000
8,000	400	50	450	320	50	370	8,000
10,000	560	110	670	480	110	590	10,000
12,000	720	190	910	640	190	830	12,000
14,000	880	290	1,170	800	290	1,090	14,000
16,000	1,040	410	1,450	960	410	1,370	16,000
18,000	1,200	550	1,750	1,120	550	1,670	18,000
20,000	1,360	710	2,070	1,280	710	1,990	20,000
22,000	1,520	890	2,410	1,440	890	2,330	22,000
24,000	1,680	1,090	2,770	1,600	1,090	2,690	24,000
26,000	1,840	1,310	3,150	1,760	1,310	3,070	26,000
28,000	2,000	1,550	3,550	1,920	1,550	3,470	28,000
30,000	2,160	1,810	3,970	2,080	1,810	3,890	30,000
32,000	2,320	2,090	4,410	2,240	2,090	4,330	32,000
34,000	2,480	2,390	4,870	2,400	2,390	4,790	34,000
36,000	2,640	2,710	5,350	2,560	2,710	5,270	36,000
38,000	2,800	3,050	5,850	2,720	3,050	5,770	38,000
40,000	2,960	3,410	6,370	2,880	3,410	6,290	40,000
42,000	3,120	3,790	6,910	3,040	3,790	6,830	42,000
44,000	3,280	4,190	7,470	3,200	4,190	7,390	44,000
46,000	3,440	4,610	8,050	3,360	4,610	7,970	46,000
48,000	3,600	5,050	8,650	3,520	5,050	8,570	48,000
50,000	3,760	5,510	9,270	3,680	5,510	9,190	50,000
52,000	3,920	5,990	9,910	3,840	5,990	9,830	52,000
54,000	4,080	6,490	10,570	4,000	6,490	10,490	54,000
56,000	4,240	7,010	11,250	4,160	7,010	11,170	56,000
58,000	4,400	7,550	11,950	4,320	7,550	11,870	58,000
60,000	4,560	8,110	12,670	4,480	8,110	12,590	60,000
62,000	4,720	8,690	13,410	4,640	8,690	13,330	62,000
64,000	4,880	9,290	14,170	4,800	9,290	14,090	64,000
66,000	5,040	9,910	14,950	4,960	9,910	14,870	66,000
68,000	5,200	10,550	15,750	5,120	10,550	15,670	68,000
70,000	5,360	11,210	16,570	5,280	11,210	16,490	70,000
72,000	5,520	11,890	17,410	5,440	11,890	17,330	72,000
74,000	5,680	12,590	18,270	5,600	12,590	18,190	74,000
76,000	5,840	13,310	19,150	5,760	13,310	19,070	76,000
78,000	6,000	14,050	20,050	5,920	14,050	19,970	78,000
80,000	6,160	14,810	20,970	6,080	14,810	20,890	80,000
82,000	6,320	15,590	21,910	6,240	15,590	21,830	82,000
84,000	6,480	16,390	22,870	6,400	16,390	22,790	84,000
86,000	6,640	17,210	23,850	6,560	17,210	23,770	86,000
88,000	6,800	18,050	24,850	6,720	18,050	24,770	88,000
90,000	6,960	18,910	25,870	6,880	18,910	25,790	90,000
92,000	7,120	19,790	26,910	7,040	19,790	26,830	92,000
94,000	7,280	20,690	27,970	7,200	20,690	27,890	94,000
96,000	7,440	21,610	29,050	7,360	21,610	28,970	96,000
98,000	7,600	22,550	30,150	7,520	22,550	30,070	98,000
100,000	7,760	23,510	31,270	7,680	23,510	31,190	100,000
150,000	11,760	49,510	61,270	11,680	49,510	61,190	150,000
200,000	15,760	77,510	93,270	15,680	77,510	93,190	200,000

*If net income is not in excess of \$5,000 then exemption is \$2,500.

33.—ACCOUNTING.

The net income shall be computed in accordance with the method of accounting regularly employed in keeping the books of the taxpayer. If no such method of accounting has been so employed, or if the method employed does not clearly reflect the income, the computation shall be made upon such basis and in such manner as in the opinion of the Commissioner does clearly reflect the income. No taxable income accrues from, nor is invested capital increased by, a mere book entry.

The privilege is granted to national and state banks to keep books and records (in addition to their regular books and records), in which proper adjustments with respect to the cost of physical assets and depreciation thereon may be made.

Dealers in cotton and grain, and in such other commodities as are dealt in in a similar manner, may incorporate in their balance sheets at the close of any taxable year such open future contracts as are hedges against actual spot or cash transactions, provided that no purely speculative transactions may be so included, and that the value of the commodity covered by such open future contracts shall not be added to nor deducted from the inventory.

Profits and losses on the sale of German securities are measured in United States currency by the rate of exchange prevailing at the time of the transaction. A dealer in foreign exchange, but not a taxpayer who is not a dealer, may inventory foreign money on hand.

The net income shall be computed upon the basis of the taxpayer's annual accounting period, which must be a fiscal year or a calendar year. If the taxpayer's annual accounting period is other than a fiscal year, meaning an accounting period of twelve months ending on the last day of any month other than December, or if the taxpayer has no annual accounting period or does not keep books, the net income shall be computed on the basis of the calendar year. The term "taxable year" means the calendar year, or the fiscal year ending during such calendar year, upon the basis of which the net income is computed.

If a taxpayer changes his accounting period from fiscal year to calendar year, from calendar year to fiscal year, or from one fiscal year to another fiscal year, the net income shall, with the approval of the Commissioner, be computed on the basis of such new accounting period.

As a change in the accounting period, and consequently a change in the taxpayer's taxable year, results in a period of a fraction of a year between the end of the former taxable year and the end of the new taxable year, the net income for such period is to be separately computed and included in a separate return.

34.—Returns When Accounting Period Changed.

If a taxpayer, with the approval of the Commissioner changes the basis of computing net income from fiscal year to calendar year a separate return shall be made for the period between the close of the last fiscal year for which return was made and the following December 31. If the change is from calendar year to fiscal year, a separate return shall be made for the period between the close of the last calendar year for which return was made and the date designated as the close of the fiscal year. If the change is from one fiscal year to another fiscal year, a separate return shall be made for the period between the close of the

former fiscal year and the date designated as the close of the new fiscal year.

In all of the above cases the net income shall be computed on the basis of such period for which separate return is made, and the tax shall be paid thereon at the rate for the calendar year in which such period is included. In the case of an individual the credits for personal exemption and for dependents shall be reduced respectively to amounts which bear the same ratio to the full credits as the number of months in such period bears to twelve months. *In the case of a return for a period of less than one year the net income is to be placed on an annual basis by multiplying such net income by twelve and dividing by the number of months included in the period. The tax is to be computed thereon by determining the tax on an annual basis and then multiplying by the number of months in the period and dividing by 12.*

35.—Year in Which Items to be Accounted For.

The amount of all items of gross income shall be included in the gross income for the taxable year in which received by the taxpayer, unless under methods of accounting permitted under the preceding paragraphs any such amounts are to be properly accounted for as of a different period.

Losses are deductible in the year in which sustained, unless in order to clearly reflect the income they should be accounted for as of a different period.

The term "paid" for the purposes of the deductions and credits allowed by the statute means "paid or accrued" or "paid or incurred," and such phrases shall be construed according to the method of accounting upon the basis of which the net income is computed.

Even though returns of income are made on an accrual basis, executory contracts of sale do not ordinarily provide profits or losses which can be accrued. Such a contract must be fully performed on one side, so that an unconditional liability exists, before there is any possibility of accrual. Contracts covering unfilled and undelivered orders are not required to be treated as gross sales for the year in which the contracts are entered into.

Where a purchaser orders and pays for a product which is to be delivered as needed upon presentation of coupons issued by the manufacturer at the time of sale, the manufacturer may treat the sales value of the coupons issued and outstanding at the close of the taxable year as a liability and base the amount of gross profit from sales upon the coupons redeemed in merchandise during the year.

Part of the annual rent withheld by a lessee in accordance with the terms of a lease constitutes a liability of the lessee for the year during which it was withheld.

A taxpayer who sells merchandise on the installment plan may not allocate the expenses incident to producing the income to the year in which the profits on the sale of the goods are realized.

Expenses of an advertising campaign are deductible only in the return for the year in which paid or in the year in which liability therefor accrued, if the books are kept on an accrual basis.

36.—WHEN AND WHERE RETURNS ARE TO BE FILED.

If returns are made on the basis of the calendar year 1921, they should be filed on or before March 15, 1922, unless this date is automatically extended. If returns are made on the basis of a fiscal year, they should be filed on or before the fifteenth day of the third month following the close of the fiscal year.

Returns in the case of individuals shall be made to the collector for the district in which is located the legal residence or principal place of business of the person making the return, or, if he has no legal residence or principal place of business in the United States, then to the collector at Baltimore, Maryland.

37.—Extension of Time for Filing Returns.

If for any reason return cannot be made by the due date, application may be made to the Collector of Internal Revenue for the district in which the taxpayer is located, setting forth the facts as to the taxpayer's inability to file on or before the due date, and upon a showing of a reasonable excuse, such as absence, sickness, etc., the collector will grant an extension of time not exceeding thirty days in which to file the return. If a further extension of time is required, application is to be made to the Commissioner of Internal Revenue at Washington, D. C., in the same manner. The Collector of Internal Revenue only has the power to grant an extension of time not exceeding thirty days. The Commissioner may grant an extension of time for filing returns on a reasonable cause shown, not exceeding six months, except in case of absence abroad.

38.—PAYMENT OF TAX.

The tax may be paid in four installments, covering the entire year, up to December 15, 1922. The first payment is due at the time of filing the return, that is, March 15, 1922, if the return is made on the basis of the calendar year 1921. The second payment is to be made on June 15, the third payment on September 15 and the fourth and final payment on December 15.

If an extension of time for filing the return is requested and granted, the time for the payment of the first installment shall be postponed until the date of the expiration of the extension; but the time for payment of the other installments shall not be postponed unless the Commissioner of Internal Revenue so provides in granting the extension.

When the time for the payment of any installment is thus postponed at the request of the taxpayer, there shall be added, as part of such installment, interest at the rate of one-half of one per cent per month from the date the installment would have been due if no extension had been granted, until paid; thus, if a taxpayer whose tax is \$500 secures an extension of thirty days from March 15 to April 15 for filing the return, the first installment of \$125 would be due on April 15, and if paid on that date there must be added interest at the rate of one-half of one per cent, or 63 cents, to the payment; the second payment of \$125 would then be due June 15 on which no interest would be paid, the third payment of \$125 on September 15 and the fourth or final payment of \$125 on December 15.

If any installment is not paid when due, the whole amount of the tax unpaid becomes due and payable upon notice and demand

from the collector; and if not paid within ten days, a five per cent penalty accrues with interest at the rate of one per cent per month until paid.

If the taxpayer desires, the tax may be paid in full on or before the date fixed for filing the return unless the date is automatically extended. If an extension of time has been granted in which to file the return, the date of the expiration of the extension shall be the due date of the tax.

The payment of a tax to a deputy collector, other than the one authorized by the collector to receive it, is not a satisfaction of the tax liability. *Hurst vs. Lederer*.

39.—Payment of Tax in Case of a Fiscal Year.

Payment of the tax may be made in four quarterly installments, or in full. If payment is made in full, it must be made on or before the date fixed for filing the return; and if payment is made in installments, the first installment of one-quarter of the tax must be made on or before the date fixed for filing the return; the second payment on or before the fifteenth day of the third month following; the third payment on or before the fifteenth day of the sixth month; and the fourth or final payment on or before the fifteenth day of the ninth month following the date of filing the return.

40.—Medium of Payment.

Collectors may receive at par with an adjustment for accrued interest notes or certificates of indebtedness issued by the United States and uncertified checks in payment of income, war profits and excess profits taxes during such time and under such regulations as the Commissioner shall prescribe; but if a check so received is not paid by the bank on which it is drawn the person by whom such check has been tendered shall remain liable for the payment of the tax and for all legal penalties and additions the same as if such check had not been tendered.

41.—Receipts for Payments.

Every collector to whom any payment of any income, war profits or excess profits tax is made shall upon request give to the person making such payment a full written or printed receipt, stating the amount paid and the particular account for which such payment was made. Whenever any debtor pays taxes on account of payments made or to be made by him to separate creditors the collector shall, if requested by such debtor, give a separate receipt for the tax paid on account of each creditor in such form that the debtor can conveniently produce such receipts separately to his several creditors in satisfaction of their respective demands up to the amounts stated in the receipts; and such receipt shall be sufficient evidence in favor of such debtor to justify him in withholding from his next payment to his creditor the amount therein stated, but the creditor may, upon giving to his debtor a full written receipt acknowledging the payment to him of any sum actually paid and accepting the amount of tax paid as aforesaid (specifying the same) as a further satisfaction of the debt to that amount, require the surrender to him of such collector's receipt.

42.—Payment Upon Recomputation of Tax.

As soon as practicable after the return is filed, the Commissioner shall examine it. If it then appears that the correct amount of the tax is greater or less than that shown in the return, the installments shall be recomputed.

FEDERAL INCOME TAXES FOR 1921

If the amount already paid exceeds that which should have been paid on the basis of the installments as recomputed, the excess so paid shall be credited against the subsequent installments; and if the amount already paid exceeds the correct amount of the tax, the excess shall be credited or refunded to the taxpayer.

Upon discovery of a deficiency in the tax the taxpayer shall be given not less than 30 days after notice is sent by registered mail to show cause. After a hearing his appeal shall be decided as quickly as practicable and any deficiency assessed without right to a claim in abatement.

Taxes for 1921 must be assessed within four years after the return is filed, and for preceding years assessment must be within five years. (See paragraph 55.)

In the case of a deficiency where its payment would result in undue hardship, an extension of time not exceeding eighteen months from the passage of the new law may be granted by the Commissioner, subject to the furnishing of a surety bond and the addition of $\frac{3}{4}\%$ interest per month.

43.—REFUNDS.

The Commissioner of Internal Revenue, subject to regulations prescribed by the Secretary of the Treasury, is authorized to remit, refund, and pay back all taxes erroneously or illegally assessed or collected, all penalties collected without authority, and all taxes that appear to be unjustly assessed or excessive in amount, or in any manner wrongfully collected.

No credit or refund of taxes shall be allowed or made after five years from the date when the return was due, unless before the expiration of such five years a claim therefor is filed by the taxpayer. *Claims for refund or credit may be filed within four years after the payment of the tax. (See paragraph 55.)*

After a tax has been paid, an appeal to the Commissioner of Internal Revenue for refund of such tax erroneously collected is necessary before suit for the recovery thereof, even though a claim in abatement was filed and relief denied before such tax payment. *Rock Island, Arkansas & Louisiana K. R. Co. v. United States.*

44.—INFORMATION RETURNS.

Every person, corporation or partnership making payments of gains, profits or income of any description, which are either fixed or determinable to any other person or partnership, of \$1,000 or more in any taxable year, is required to make a return of such information to the Commissioner of Internal Revenue, giving the amounts of such payments and the names and addresses of the recipients.

This does not apply to the payments of dividends to stockholders by a corporation or the payments by a broker to customers of profits on transactions. These returns in the case of dividends and payments of profits by brokers are required only when requested by the Commissioner of Internal Revenue, in order to check up individual returns.

45.—COLLECTION OF FOREIGN ITEMS.

Returns of information are required, regardless of amounts, in the case of collections of items (not payable in the United States) of interest upon the bonds of foreign countries and interest upon the bonds of and dividends from foreign corporations by individuals, corporations or partnerships undertaking as a matter

PART II—RETURN AND PAYMENT OF TAX

of business or for profit the collection of foreign payments of such interest or dividends by means of coupons, checks or bills of exchange.

All individuals, corporations, or partnerships undertaking as a matter of business or for profit the collection of foreign payments of interest or dividends by means of coupons, checks, or bills of exchange shall obtain a license from the Commissioner; and whoever knowingly undertakes to collect such payments without having obtained a license therefor, or without complying with the prescribed regulations, shall be guilty of a misdemeanor and shall be fined not more than \$5,000, or imprisonment for not more than one year, or both.

Any person, corporation, individual, or partnership holding a license secured under previous Revenue acts will not be required to take out a license under the present act. If licenses are required for branch offices, the collector for the district in which the home office is located, if notified, will issue the necessary authority to the collectors of the districts in which are located any branch offices for which any additional licenses are required.

46.—PAYMENT OF TAX AT SOURCE.

Withholding the tax at the source is limited in application to nonresident alien individuals, *partnerships composed in whole or in part of nonresident aliens* and foreign corporations not having an office or place of business in the United States, except in the case of obligations containing the so-called tax-free covenant.

No withholding is necessary from interest on bank deposits paid to persons not engaged in business in the United States and not having an office or place of business therein.

47.—Withholding Tax on Bond Interest.

In any case where bonds, mortgages, or deeds of trust, or other similar obligations of a corporation, contain a contract or provision by which the obligor agrees to pay any portion of the income tax imposed upon the obligee, or to reimburse the obligee for any portion of the tax, or to pay the interest without deduction for any tax which the obligor may be required or permitted to pay thereon or to retain therefrom under any law of the United States, the obligor shall deduct and withhold a tax equal to two per cent of the interest upon such bonds, mortgages, deeds of trust or other obligations, whether such interest is payable annually or at shorter or longer periods, and whether payable to a nonresident alien individual (or nonresident foreign corporation) or to an individual citizen or resident of the United States, or to a partnership: Provided that the Commissioner may authorize such tax to be deducted and withheld in the case of interest upon any such bonds, mortgages, deeds of trust or other obligations the owners of which are not known to the withholding agent. In the case of a citizen or resident entitled to receive such interest, the withholding shall not be required if he files with the withholding agent on or before February 1 a signed notice in writing claiming the benefits of the exemption of either \$1,000 or \$2,000, according to his marital status.

48.—Bonds Not Containing a Tax-Free Covenant Clause.

The Commissioner has ruled that a corporation issuing bonds without a tax-free covenant is not permitted to deduct or pay tax

at the source with respect to the interest thereon, except in cases where bonds are owned by nonresident alien individuals, *partnerships composed in whole or in part of nonresident aliens*, or corporations not having an office or place of business in the United States.

If the bonds do not contain a tax-free clause, the Government imposes no obligation upon the corporation for payment of the tax at the source, when paid to citizens, residents or domestic corporations, the tax in this case being paid by the bondholder.

Should a corporation desire to reimburse its bondholders in such cases, it may do so, as this is a matter wholly between the parties concerned and one in which the Government is not interested. However, such income should not be reported as subject to withholding, and the Internal Revenue Bureau will not accept tax deducted in such cases by the withholding agent.

If interest payments on bonds which do not contain a tax-free covenant are made to citizens or residents of the United States, such payments must be reported on Form 1001, Revised.

49.—Bond Interest Paid to Nonresident Aliens.

In the case of bond interest paid to nonresident alien individuals, *partnerships composed in whole or in part of nonresident aliens*, or nonresident foreign corporations, the tax is to be withheld by the issuing corporation in every case, whether or not the bonds contain a tax-free clause. When the bonds contain a tax-free clause the amount to be withheld in all cases is two per cent. When the bonds do not contain the tax-free clause the amount to be withheld is eight per cent in the case of individuals or *partnerships*, and the amount to be withheld from nonresident foreign corporations is ten per cent.

In the case of interest upon corporate bonds, therefore, withholding at the rate of 2 per cent is required from payments to all persons, *excluding domestic and resident foreign corporations*, if the bonds or the instrument securing them contain a tax-free covenant. If, however, corporate bonds do not contain a tax-free covenant, withholding is required only from payments of interest thereon to nonresident alien individuals (and unknown persons), *partnerships composed in whole or in part of nonresident aliens*, or to nonresident foreign corporations, but in such case at the rate of 8 and 10 per cent, respectively, as indicated above.

The effect of the statute is that where corporate bonds contain a tax-free covenant there is no actual withholding, but the corporation necessarily pays the 2 per cent tax for members of a partnership, for personal service corporations, which are treated like partnerships, and for nonresident foreign corporations, which receive the interest; pays the tax for individuals unless they claim exemption, which they rarely do; and *does not pay it for domestic or resident foreign corporations*.

50.—Other Income Paid to Nonresident Aliens.

All individuals, corporations and partnerships making payments of interest, rent, salaries, wages, premiums, annuities, compensations, remunerations, emoluments or other fixed or determinable annual or periodical gains, profits or income to any nonresident alien individuals, *partnerships composed in whole or in part of nonresident aliens*, or nonresident foreign corporations shall deduct and withhold from such payments a tax equal to eight per cent thereof in the case of individuals and *partnerships* and ten

PART II—RETURN AND PAYMENT OF TAX

per cent thereof in the case of nonresident foreign corporations. A tax equal to eight per cent shall also be withheld from the interest on securities the owners of which are unknown to the withholding agent. The foregoing does not apply to payments of dividends (allowed as a credit) by corporations.

51.—Withholding Returns.

Every individual, corporation or partnership required to deduct and withhold any tax shall make return thereon on or before March first of each year and shall on or before June fifteenth pay the tax to the collector. Every such individual, corporation or partnership is made liable for such tax and is indemnified by the statute against the claims and demands of any individual, corporation or partnership for the amount of any payments made in accordance with the provisions of the statute. If any tax required to be deducted and withheld is, however, paid by the recipient of the income, it shall not be recollected from the withholding agent; nor in cases in which the tax is so paid is any penalty imposed upon or collected from the recipient of the income or the withholding agent for failure to return or pay it, unless such failure was fraudulent and for the purpose of evading payment.

52.—OWNERSHIP CERTIFICATES.

Returns of information may in any event be required from corporate obligors or their agents in the case of payments of interest upon bonds, mortgages, deeds of trust or other similar obligations of corporations, whether or not containing a tax-free covenant. This provision, applying in cases both where withholding is required and where it is not required, furnishes the present statutory basis for the system of ownership certificates now inseparably connected with the payment of interest coupons on corporate bonds.

53.—PENALTIES.

For failure to render returns, whether of income, withholding or information, at the proper times, for understating the income or tax, and for failure to pay the tax or installments of it when due and payable, the statute prescribes various penalties. These include severally or in combination the addition of interest to the tax, and the addition of specified percentages of the tax and the imposition of fines. For a false oath to an income tax return a taxpayer may be indicted for perjury.

54.—ACCESSIBILITY OF BOOKS AND RECORDS.

Every person liable to the tax, or for the collection thereof, shall keep such records and render under oath such statements and returns and shall comply with such regulations as the Commissioner may from time to time prescribe. The Commissioner, for the purpose of ascertaining the correctness of any return or for the purpose of making a return where none has been made, is authorized, by any revenue agent or inspector designated by him for that purpose, to examine any books, papers, records or memoranda bearing upon the matter required to be included in the return, and may require the attendance of the person rendering the return or of any officer or employee of such person, or the attendance of any other person having knowledge in the premises,

and may take his testimony with reference to the matter required by law to be included in such return, with power to administer oaths to such person or persons.

No taxpayer shall be subjected to unnecessary examinations and only one inspection of the taxpayer's books of account shall be made for each taxable year unless the taxpayer requests otherwise or unless the Commissioner, after investigation, notifies the taxpayer that an additional inspection is necessary.

55.—DISPOSITION OF TAX CASES.

A change in the regulations or a new treasury decision reversing a prior regulation or treasury decision, unless such reversal is occasioned or required by a court decision, may be applied without retroactive effect.

An agreement in writing between the taxpayer and the Commissioner as to the amount of taxes due, except upon a showing of fraud or malfeasance, is final and conclusive and therefore binding upon the parties.

In the absence of fraud or a mistake in calculation, the decision of the Commissioner upon any claim shall not be subject to review by any other administrative officer of the United States.

No suit or proceeding (except in the case of a false or fraudulent return or a failure to file a return) for the collection of any tax due shall be begun after the expiration of five years from the date when such return was filed. (See paragraph 42.)

No suit or proceeding for the recovery of any tax wrongfully collected shall be begun until a claim for refund or credit has been duly filed and before the expiration of six months (or adverse decision by the Commissioner) from the date of filing such claim, nor after the expiration of five years from the date of payment of such tax. This provision does not affect any suit or proceeding instituted prior to the passage of the Revenue Act of 1921, but is applicable to all suits and proceedings instituted after the passage thereof, regardless of the fact that such suits may be barred by prior acts.

Upon the allowance of a claim for refund of or a credit for taxes, interest is allowed the taxpayer on the amount refunded or credited at the rate of $\frac{1}{2}\%$ per month from the time the amount refunded or credited was paid, either under protest or pursuant to an additional assessment, or from six months after the date of filing of claim for refund or credit, to the date of allowance of such claim. (See paragraph 43.)

56.—PRIVACY OF RETURNS.

The information contained in any return is to be treated as inviolably confidential by all internal revenue officers and is not open to inspection by any person excepting upon order of the President of the United States, and under rules and regulations prescribed by the Secretary of the Treasury and approved by the President. The proper officers of any state imposing an income tax, upon request of the governor thereof, may have access to the returns of any corporation in such manner as the Secretary of the Treasury may prescribe.

PART III

PERSONS LIABLE TO TAX

57.—SPECIAL CLASSES OF TAXPAYERS.

The statute taxes individuals, including estates and trusts, and corporations. The typical individuals are citizens and alien residents of the United States, and the typical corporations are ordinary domestic corporations. In other parts of this booklet the provisions of the law which apply generally to these typical taxpayers are explained. No attempt has been made to draw distinction between different classes of persons, except generally between individuals and corporations.

But the statute does not treat all persons alike. It is necessary, therefore, to ascertain, first, what different kinds of persons the statute is concerned with and, second, how each kind is differentiated in its treatment from the others. In Part III a classification of persons who are taxed or are affected by the tax is indicated, and the provisions of the law which apply specially to the several classes of persons, and not to the typical citizens, residents and domestic corporations, are discussed.

58.—NONRESIDENT ALIEN INDIVIDUALS.

Nonresident aliens who derive any income from sources within the United States will be required to file returns. *Such returns are to be filed on or before the fifteenth day of the sixth month following the end of the fiscal year (June 15th in the case of a calendar year). The personal exemption of a nonresident alien individual is \$1,000, with no credit for dependents.*

Nonresident aliens are taxable at the flat rate of 8 per cent on all income in excess of the personal exemption of \$1,000. A nonresident alien is allowed to deduct foreign taxes (other than income, excess profits or local benefit taxes) upon property or business, if and to the extent that the taxes are connected with income arising from a source within the United States.

Where a nonresident alien taxpayer becomes a citizen or resident of the United States during the taxable year, he is taxable for the entire year upon income derived from all sources. An alien leaving the United States must secure a certificate from the collector that he has complied with all tax requirements and that he has discharged his tax obligations.

In the case of a nonresident alien individual, gross income means only gross income from sources within the United States. What this gross income constitutes is specified in elaborate detail in the new law which allocates certain important sources of income within or without the United States, as the case may be. With respect to income derived partly from sources within and partly from sources without the United States the new law authorizes the Commissioner to determine the proportion attributable to the United States by reasonable processes of allocation or apportionment.

The income of a nonresident alien (or foreign corporation), which consists exclusively of earnings derived from the operation of a ship or ships documented under the laws of a foreign country which grants an equivalent exemption to citizens of the United States and to corporations organized in the United States, is exempt.

Where a nonresident alien buys bonds of a foreign corporation and later sells such bonds in the United States at a profit, such profit represents income from sources within the United States. However, if such bonds are payable at maturity either in a foreign country or in the United States, the profit, if any, on retirement is not derived from sources within the United States.

No withholding is necessary in the case of interest on bank deposits paid to persons not engaged in business in the United States and not having any office or place of business therein.

59.—Citizens of United States Possessions.

Any individual who is a citizen of any possession of the United States, such as Porto Rico or the Philippine Islands (and not otherwise a citizen of the United States), shall be subject to income tax only upon income derived from sources within the United States and shall be subject to the same provisions as nonresident aliens.

60.—FOREIGN CORPORATIONS.

Foreign corporations are taxable only upon income derived from sources within the United States and the gross income of a foreign corporation means only the gross income from sources within the United States. The provisions as to the computation of gross income, net income, deductions and filing of returns are similar to those of nonresident alien individuals. Foreign corporations are not allowed the specific exemption of \$2,000 for income tax, nor \$3,000 for excess profits tax.

61.—INCOME FROM UNITED STATES POSSESSIONS.

In the case of citizens of the United States or domestic corporations (1) 80% or more of whose gross income for the three-year period immediately preceding the close of the taxable year was derived from sources within a possession of the United States, and (2) 50% or more of whose gross income for such period was derived from the active conduct of a business or trade within a possession of the United States (in the case of an individual, on his own account or as an agent or employee of another), gross income means only gross income from sources within the United States. As used herein "Possession of the United States" does not include the Virgin Islands.

The personal exemption of such an individual is \$1,000, with no credit for dependents. The deductions are to be the same and are to be determined in the same manner as in the case of a nonresident alien individual. The credit for foreign taxes (paragraph 24) will not be allowed.

The net income of the above individuals and corporations will be computed as in the case, respectively, of nonresident alien individuals and foreign corporations. However, there is to be included in gross income all amounts derived from sources within and without the United States.

For the purposes of affiliation, credit for foreign taxes and the imposition of the excess profits tax, such a corporation will be treated as a foreign corporation.

62.—FIDUCIARIES, ESTATES AND TRUSTS.

Fiduciaries such as executors, guardians, trustees, administrators, receivers or conservators shall make return for the individual or the estate or trust for which they act if the net income of such individual is \$1,000 or more if single or if married and not living with husband or wife; or \$2,000 or over if married and living with husband or wife; or if the gross income of such individual (regardless of the amount of net income) is \$5,000 or over; or if the net income of such estate or trust is \$1,000 or over; or if any beneficiary of such estate or trust is a nonresident alien. A return made by any one of two or more joint fiduciaries shall be sufficient.

The income of estates or property held in trust is taxed as an entity, including estates of deceased persons during the period of administration, income accumulated in trust for the benefit of unborn or unascertained persons or income held for future distribution under the terms of the will or trust. In these cases the return should be made and the tax paid by the fiduciary, who is allowed the same deductions, and credits as are allowed to a single person, except that contributions may be deducted without the 15 per cent limitation applied to individuals.

The fiduciary is also required to make return of the income of estates which is to be distributed to the beneficiaries periodically, whether or not at regular intervals, or income collected by a guardian of an infant, to be held or distributed as the Court may direct, but the tax on such income is to be paid by the beneficiaries. A statement of the income of the estate or trust which is distributable to each beneficiary, whether distributed or not, should be included in the return by the fiduciary.

Income of an estate during the period of administration which is not paid or credited to a beneficiary is taxable to the estate even though such beneficiary as a matter of law was entitled to be paid or credited with such income during that year. However, when such income is properly paid or credited to any beneficiary the amount thereof may be deducted in determining the net income of the estate.

When income of an estate or trust consists of both presently distributable income and income held for future distribution, the tax is to be paid by the fiduciary, except that the income presently distributable is allowed as an additional deduction in computing the net income. The distributable income is to be included by the beneficiaries in their individual tax returns.

A trust created by an employer as a part of a stock bonus or profit-sharing plan for the exclusive benefit of his employees, to which contributions are made by such employer, or employees, shall not be taxable; but the amount actually distributed or made available to any such employee shall be taxable to him in the year in which so distributed or made available to the extent that it exceeds the amounts paid in by him. Such distributees shall for the purpose of the normal tax be allowed as credits that part of the amount so distributed or made available as represents dividends or exempt interest on United States obligations.

A trustee in bankruptcy or an assignee for the benefit of creditors, when representing the estate of an individual, is treated like other fiduciaries.

In cases where receivers, trustees in bankruptcy or assignees are operating the property or business of corporations, such receivers, trustees or assignees shall make returns for such cor-

porations in the same manner and form as corporations are required to make returns. Any tax due on the basis of such returns made by receivers, trustees or assignees shall be collected in the same manner as if collected from the corporations of whose business or property they have custody and control.

Taxes due on income received during the lifetime of a decedent must be assessed within one year after the filing by the executor of a written request for such assessment.

Executors who continue the trade or business of a decedent may deduct from the gross income of his estate all ordinary and necessary expenses incurred in continuing such trade or business, but may not deduct expenses of administration.

The federal estate tax paid by an estate is deductible from its gross income for the purpose of the income tax. United States v. Woodward.

A testator creating a trust can not render appreciation of the trust estate after his death, realized by sale, nontaxable by a provision in his will that "accretions of selling value shall be considered principal and not income"; such provision in a will may be disregarded. *Merchants Loan and Trust Company v. Smietanka.*

Where the duties of an individual to whom no property was conveyed are to receive income in accordance with the terms of an agreement, to account for it and to perform other minor services, he is an agent of the persons signing the agreement, and not a fiduciary.

63.—PARTNERSHIPS.

Individuals carrying on business in partnership are liable for income tax only in their individual capacity. There must be included in computing the net income of each partner his distributive share, whether distributed or not, of the net income of the partnership for the taxable year, or if his net income for such taxable year is computed upon the basis of a period different from that upon the basis of which the net income of the partnership is computed, then his distributive share of the net income of the partnership for any accounting period of the partnership ending within the fiscal or calendar year upon the basis of which the partner's net income is computed.

The net income of the partnership shall be computed in the same manner and on the same basis as that of an individual. *Partnerships are not allowed the deduction for charitable contributions.* A partnership is not required to include in gross income the proceeds of life insurance policies paid to it upon the death of the insured. *Partnerships composed in whole or in part of nonresident aliens are subject to withholding.* The deduction for net loss (paragraph 16) is allowed to members of partnerships.

Where liberty bonds or other partially tax-exempt securities are owned by a partnership each partner is treated as the owner of such bonds to the extent of his partnership interest for the purpose of separately claiming the partial exemption, that is, a partner shall in computing his normal tax be allowed as credits, in addition to the specific exemption his proportionate share of the dividends, or interest upon obligations of the United States and bonds issued by the War Finance Corporation which are received by the partnership.

The tax itself shall be credited in the case of any citizen or resident who is a member of a partnership with his proportionate

PART III—PERSONS LIABLE TO TAX

share of any income, war profits or excess profits taxes of the partnership paid during the taxable year to a foreign country or to any possession of the United States, as the case may be.

Every copartnership must make a return showing the gross income, the deductions allowed by law and the net income; also the distributive interest of each partner in the partnership profits, whether such profits have been distributed or not, with the names and addresses of the persons who would be entitled to such profits if distributed. The return may be sworn to by any one partner. The partnership itself is not subject to either the excess profits tax or the income tax.

64.—PERSONAL SERVICE CORPORATIONS.

A personal service corporation is a corporation whose income is due primarily to the activities of the principal owners or stockholders who are themselves regularly engaged in the active conduct of the affairs of the corporation and in which capital (whether invested or borrowed) is not a material income-producing factor. For instance, a corporation composed of commission merchants or advertising men, whose principal owners or stockholders are themselves actively engaged in the conduct of the business, whose income is due principally to their personal services, and whose capital is employed for the purposes of paying for office equipment and employees' salaries, is a personal service corporation.

In the case of a personal service corporation, if 50 per cent or more of the gross income consists of (1) gains derived from trading as a principal, or (2) gains, profits or commissions derived from Government contracts, made between April 6, 1917, and November 11, 1918, both dates inclusive, it shall not be treated as a personal service corporation subject to the provisions which apply to a partnership, but shall be taxed as a corporation.

The individual stockholders of personal service corporations shall be taxed in the same manner as the members of partnerships, and all the provisions of the Act relating to partnerships and members shall, so far as practicable, apply to personal service corporations and their stockholders. Any portion of the net income remaining undistributed at the close of the taxable year shall for the purpose of taxation be assigned to the stockholders in proportion to their respective shares.

Every personal service corporation, although not subject to the tax, must file a return showing the gross income, the deductions allowed by law, the net income and the amounts distributed, with the names and addresses of the recipients. Where a part of the net income has not been distributed, the names and addresses of the stockholders who would be entitled to the profits if distributed must be given, with the portion assignable to each.

If the special provisions taxing the shareholders of a personal service corporation on their distributive shares of the income of the corporation are declared invalid by the courts, personal service corporations for 1918, 1919, 1920 and 1921 will be taxed like ordinary corporations. The shareholders are given the option of paying the taxes as above, instead of the corporation tax.

65.—CORPORATIONS AVAILED OF TO PREVENT IMPOSITION OF SURTAX.

If a corporation is formed or availed of for the purpose of preventing the imposition of the surtax upon its stockholders through the medium of permitting its gains and profits to accumulate instead of being divided or distributed, such corporation must pay an additional income tax of 25 per cent, but if the stockholders agree they may pay a tax on the undistributed income of the corporation as though they were partners.

66.—INSURANCE COMPANIES.

In the case of an insurance company subject to the income tax the term "gross income" means the gross income as defined in paragraph 71 except that mutual marine insurance companies shall include in gross income the gross premiums collected and received by them less amounts paid for reinsurance. *It should be noted that the new law enacts special provisions for the taxing of life insurance companies.*

In computing the net income of insurance companies (other than life insurance companies), in addition to the deductions permitted ordinary corporations, there are allowed special deductions from gross income. These comprise:

(1) In the case of insurance companies (a) the net addition required by law to be made within the taxable year to reserve funds (including in the case of assessment insurance companies the actual deposit of sums with state or territorial officers pursuant to law as additions to guarantee or reserve funds); and (b) the sums other than dividends paid within the taxable year on policy and annuity contracts;

(2) In the case of corporations issuing policies covering life, health and accident insurance combined in one policy issued on the weekly premium payment plan continuing for life and not subject to cancellation, in addition to the above, such portion of the net addition (not required by law) made within the taxable year to reserve funds as the Commissioner finds to be required for the protection of the holders of such policies only;

(3) In the case of mutual marine insurance companies, there shall be allowed in addition to the deduction allowed in paragraph (1), the amounts repaid to policyholders on account of premiums previously paid by them, and interest paid upon such amounts between the ascertainment and the payment thereof; and

(4) In the case of mutual insurance companies, *including inter-insurers and reciprocal underwriters* (other than mutual life or mutual marine insurance companies) requiring their members to make premium deposits to provide for losses and expenses, there shall be allowed, in addition to the deduction allowed in paragraph (1), the amount of premium deposits returned to their policyholders and the amount of premium deposits retained for the payment of losses, expenses and reinsurance reserves.

67.—AFFILIATED CORPORATIONS.

Corporations shall be deemed to be affiliated and required to make consolidated returns for the purpose both of the excess profits and corporation income taxes if one corporation owns

directly or controls through closely affiliated interests or by a nominee or nominees substantially all the stock of the other or others; or if substantially all the stock of the two or more corporations is owned or controlled by the same interests, provided that such corporations were engaged in the same or a closely related business.

Consolidated returns of income should be filed in the case of affiliated corporations. When the tax is assessed upon the basis of a consolidated return, the tax shall be computed in the first instance as a unit and shall then be assessed upon the respective affiliated corporations in such proportion as may be agreed upon among them; or in the absence of any such agreement, then on the basis of the net income assignable to each. Only one specific credit of \$2,000 (*where the combined net income of the affiliated group is \$25,000 or less*) is to be taken for income tax purposes and one specific exemption of \$3,000 for the purpose of excess profits credit, regardless of the number of corporations in the consolidation.

The Commissioner of Internal Revenue is given power to consolidate the accounts of two or more related trades or businesses solely for the purpose of making an accurate distribution of gains, profits, income, deductions, or capital and not for the purpose of computing the tax on the basis of the consolidated return.

68.—INCOME OF STATES AND FOREIGN GOVERNMENTS.

Income derived from any public utility or the exercise of any essential governmental function and accruing to any state, territory or the District of Columbia, or any political subdivision of a state or territory, or income accruing to the government of any possession of the United States, or any political subdivision thereof, is exempt from tax. Income accumulated for use by a municipality in the exercise of a normal governmental function, after a designated annuitant's death, is not taxable.

The income of foreign governments received from investments in the United States in stocks, bonds or other domestic securities owned by such foreign governments, or from interest on deposits in banks in the United States of moneys belonging to such foreign governments, or from any other source within the United States, is exempt from tax.

69.—EXEMPT CORPORATIONS.

The classes of corporations exempt from income and profits taxes are:

- (1) Labor, agricultural or horticultural organizations.
- (2) Mutual savings banks not having capital stocks represented by shares.
- (3) Fraternal beneficiary societies, orders, etc., operated under the lodge system or for the exclusive benefit of the members.
- (4) Domestic building and loan associations substantially all the business of which is confined to making loans to members, and co-operative banks without capital stock operated for mutual purposes and without profit.

(5) Cemetery companies operated exclusively for the benefit of members or which are not operated for profit or which are chartered solely for burial purposes.

(6) Community chests, funds and foundations, as well as corporations, if operated exclusively for literary, as well as religious, charitable, scientific or educational purposes, or for the prevention of cruelty to children or animals, where no profit inures to the benefit of stockholders.

(7) Business leagues, chambers of commerce or boards of trade not organized for profit.

(8) Civic leagues operated exclusively for the promotion of social welfare.

(9) Clubs operated for pleasure, recreation and other non-profitable purposes.

(10) Farmers' or other mutual hail, cyclone or fire insurance companies, mutual ditch or irrigation companies, mutual or co-operative telephone companies, etc., the income of which consists solely of assessments and dues collected for the purpose of meeting expenses.

(11) Farmers', fruit growers', or like associations, which are organized and operated as sales agents or purchasing agents for members.

(12) Corporations organized for the exclusive purpose of holding title to property and turning over the income thereof to organizations which are exempt from the tax.

(13) Federal land banks and national farm loan associations created under the Act of July 17, 1916, to provide capital for agricultural development.

(14) Personal service corporations. (*Repealed, effective as of January 1, 1922.*)

Receipts of ship owners' mutual protection and indemnity associations, not organized for profit, are not to be included in the gross income of such associations; but their income from dividends, interest and rents is subject to tax.

70.—Examples of Exempt Corporations.

An organization which is ordinarily exempt, but which owns property in excess of its needs and carries on industrial pursuits distinct from its exempt activities, is not exempt.

An organization which is operated for the purpose of speculation rather than for savings is not a mutual savings bank.

A building and loan association which loans its funds to non-members and divides the profits solely among the holders of the paid-up certificates does not come within the exemption.

A corporation devoted to educational purposes, but organized for private pecuniary profit, is not exempt. *Kemper Military School v. Crutchley.*

A business league is not entitled to exemption if it conducts a commercial enterprise, whether or not for profit.

Co-operative home owning corporations are not exempt.

A cemetery company in order to be exempt must be owned and operated exclusively for the benefit of all lot owners.

PART IV CORPORATIONS

71.—TAX ON CORPORATIONS.

The statute imposes an income tax at a fixed rate on all corporations not expressly exempt. The tax is upon net income after deducting from gross income the allowable deductions and certain credits are allowed against net income and against the amount of the tax. The tax is payable upon the basis of returns rendered by the corporation liable thereto, except that in some cases it is to be paid at the source of the income. The statute also imposes on corporations an excess profits tax.

The gross income of a corporation is (where applicable) the same as in the case of an individual; namely, all gains, profits and income derived from businesses, commerce or sales, or dealings in property, whether real or personal, growing out of the ownership or use of or interest in such property; also, from interest, rent, dividends, securities or the transaction of any business carried on for gain or profit or gains or profits and income derived from any source whatever.

72.—RATES OF TAX ON CORPORATIONS.

The income tax on corporations is at the rate of 10% of the net income subject to tax. In order to determine the amount subject to tax the net income is first entitled to the credits specified below.

In addition to the income tax of 10 per cent there shall be levied, collected and paid upon the net income of every corporation (except exempt corporations) an excess profits tax equal to the sum of the following: First Bracket—20 per cent of the amount of the net income in excess of the excess profits credit and not in excess of 20 per cent of the invested capital. Second Bracket—40 per cent of the amount of the net income in excess of 20 per cent of the invested capital.

In any case where the full amount of the excess profits credit (explained below) is not allowed under the first bracket by reason of the fact that such credit is in excess of 20 per cent of the invested capital, the part not so allowed shall be deducted from the amount in the second bracket.

73.—CREDITS AGAINST NET INCOME ALLOWED CORPORATIONS.

In arriving at the amount of net income that is subject to income (normal) tax, there must first be deducted as a credit the amount of the excess profits tax assessed or to be assessed for the same taxable year, the interest received upon obligations of the United States and bonds of the War Finance Corporation, which has been included in gross income, and the specific exemption of \$2,000 which is allowed to those corporations only whose net income is \$25,000 or less. If the net income is more than \$25,000 the normal tax shall not exceed the tax which would be payable if the \$2,000 credit were allowed, plus the amount of the net income in excess of \$25,000.

FEDERAL INCOME TAXES FOR 1921

The credit of \$2,000 will, in the case of a corporation making return for less than 12 months, be reduced to an amount which bears the same ratio to the full credit therein provided as the number of months in the period for which such return is made bears to twelve months.

74.—DEDUCTIONS ALLOWED CORPORATIONS.

The deductions in the case of corporations are practically the same as those allowed individuals. *Dividends received from a domestic corporation (other than specified in paragraph 61) or from a foreign corporation when more than 50% of its gross income for the three-year period ending with the close of its taxable year preceding the declaration of such dividends was derived from sources within the United States, are deductible.* As has already been indicated, corporations are not entitled to deduct from gross income gifts or contributions. (See "Charitable Contributions").

So-called interest paid to subscribers for stock on installment payments made by them on account of their subscription constitutes a distribution of profits from surplus, and accordingly is not a deductible expense.

A corporation can not be denied a deduction on account of depreciation actually sustained, even thought after paying dividends its surplus is insufficient to cover depreciation.

A corporation exercising its option of charging certain items of expenditures to capital account may not amend its returns by transferring such items to operating expenses.

Taxes imposed against a taxpayer upon his interest as a stockholder in a corporation, which are paid by the corporation without reimbursement, are deductible by the corporation and not by the taxpayer.

75.—Tax on Bond Interest.

In the case of corporations issuing bonds or other obligations which contain a tax-free covenant, that is, a contract or provision in which the corporation agrees to pay any portion of the tax imposed upon the bondholder or to reimburse the bondholder for any tax which he may be required to pay, the amounts of federal income tax withheld and paid pursuant to this contract or provision is not allowed as a deduction to the debtor corporation. *Federal income tax paid by the issuing corporation in behalf of bondholders need not be included as additional gross income by such bondholders.*

76.—CREDIT FOR FOREIGN TAXES ALLOWED CORPORATIONS.

Domestic corporations are allowed to credit against their taxes the amount of any income, war profits or excess profits taxes paid during the taxable year to a foreign country or to any possession of the United States.

77.—IMPOSITION OF EXCESS PROFITS TAX.

The theory on which an excess profits tax is laid is that invested capital is entitled to a reasonable return, but that profits which are greater than necessary to afford such return are excess profits. The excess profits tax is imposed upon corporations only, individuals and partnerships being exempt. The tax is levied upon net income and is computed by the use of percent-

PART IV—CORPORATIONS

ages of the invested capital and specific credit known as the "Excess Profits" credit (as ratios) to determine at what rates the different portions of the net income shall be taxed. The rate percentage of tax depends upon the proportion of the net income to the invested capital.

78.—CORPORATIONS EXEMPT FROM EXCESS PROFITS TAX.

A corporation whose net income for the taxable year is less than \$3,000 is exempt from the excess profits tax, although a return must be filed. In the case of corporations engaged in the business of mining gold, the net income derived from such business is exempt from excess profits tax (but not from income tax). In general, corporations that are exempt for income tax purposes are not subject to the excess profits tax.

79.—Partly Personal Service Corporations.

Personal service corporations are also exempt unless 50 per cent or more of the gross income is derived from Government contracts, in which case the corporation is subject to the tax. If the net income of a corporation is in part from a trade or business in which the employment of capital is necessary, and in part from a separate business or distinctly separate branch, which, if it were the sole business, would classify the corporation as a personal service corporation, the tax is to be computed separately. In such computation only the proportionate part of the excess profits credits is to be used. This provision applies, however, only in case the personal service part of the income is not less than 30 per cent of the total.

80.—INCOME SUBJECT TO EXCESS PROFITS TAX.

The income subject to excess profits tax is found by deducting from the net income as determined for income tax purposes (without deducting the credits allowed) the excess profits credit.

81.—EXCESS PROFITS CREDIT.

A credit against net income is provided for the purpose of computing the excess profits tax. In addition to a specific exemption of \$3,000 it is 8 per cent of the invested capital.

If the tax is computed for a period of less than twelve months, the specific exemption of \$3,000 shall be reduced to an amount which is in the same proportion of \$3,000 as the number of months in the period is of twelve months.

82.—CORPORATION RETURNS.

Every corporation subject to income and excess profits taxation shall make a return, stating specifically the items of its gross income and the allowable deductions and credits. *There shall be included in the return a statement which will enable the Commissioner to determine the portion of the earnings or profits (taxable or nontaxable) accumulated during the taxable year for which the return is made, which have been distributed or ordered to be distributed during such year.* The return shall be sworn to by the president, vice-president or other principal officer and by the treasurer or assistant treasurer. Returns of income are to be filed at the same time as for the excess profits tax and payment is to be made in the same manner. Every corporation subject to in-

FEDERAL INCOME TAXES FOR 1921

come tax is required to make a return. Although the corporation income tax allows domestic corporations whose annual net income is \$25,000 or less a specific exemption of \$2,000, nevertheless corporations whose net income is less than \$2,000 are required to file a return.

Returns in the case of corporations shall be made to the collector for the district in which is located the principal place of business or principal office or agency of the corporation, or, if it has no principal place of business or principal office or agency in the United States, then to the collector at Baltimore, Maryland.

Where a stockholder acquires all of the stock of a corporation, the corporation is still required to file returns as a corporation. A corporation not yet dissolved is required to file returns regardless of whether or not it received any income during the taxable period.

Where trustees in liquidation file a corporate return, the invested capital should be computed in the same manner as in the case of an active corporation, making due allowance for any amount of capital assets which have been liquidated and returned to the stockholders.

83.—Stockholders' Privilege in Examining Returns.

All bona fide stockholders of record owning one per cent or more of the outstanding stock of any corporation shall, upon making request of the Commissioner of Internal Revenue, be allowed to examine the annual income returns of such corporation and its subsidiaries.

Any stockholder who examines the return of a corporation pursuant to the above privilege and who makes known in any manner not provided by law any particular of such return, shall be guilty of a misdemeanor and be punished by a fine not exceeding \$1,000 or by imprisonment not exceeding one year, or both.

84.—REFUND ALLOWED CORPORATIONS.

Where the invested capital of a taxpayer is decreased by the Commissioner, due to failure of the taxpayer to take adequate deductions in previous years, the taxpayer is entitled to a credit or refund of the amount of income tax which he has paid in excess of that properly due, regardless of any statute of limitation.

85.—INVESTED CAPITAL.

Invested capital embraces two classes of assets: those known as "admissible assets," and those known as "inadmissible assets." Admissible assets are those which produce income that is subject to income taxation. Inadmissible assets are those which produce income that is exempt from income taxation. For instance, cash, real estate, bills receivable and other tangible assets which produce income that is subject to the income tax are admissible assets, and assets such as stocks, state or municipal bonds which produce income that is exempt from income tax are inadmissible assets.

For the purpose of computing the excess profits tax, profits or undivided surplus earned prior to the taxable year shall be included in invested capital. Any profits or surplus earned during the taxable year shall not be included in invested capital. Borrowed capital is not to be included. The term "borrowed capital" means money or other property borrowed, whether represented by bonds, notes, open accounts or otherwise.

PART IV—CORPORATIONS

Reasonable commissions or other forms of compensation lawfully paid by a corporation for sale of its capital stock are not to be deducted in computing the invested capital. Where a corporation's income is reported on a cash receipts and disbursements basis, accrued items cannot be taken into consideration in computing its invested capital.

86.—Computation of Invested Capital.

	INCLUDE—		
To Compute Invested Capital	1. Actual cash paid in for stock		
	2. Actual cash value of tangible property paid in for stock (not to exceed value of stock) (excess value is paid-in surplus)		
	3. Paid-in or earned surplus and undivided profits (not of current year)		
	4. Intangible property paid in for stock prior to 3/3/17		
	(a) actual cash value at time paid in	lowest value to be used	
	(b) par value of stock issued therefor		
	(c) 25% of par value of total stock on 3/3/17		
	5. Intangible property paid in for stock on or after 3/3/17		
	(a) actual cash value at time paid in	lowest value to be used	
	(b) par value of stock issued therefor		
(c) 25% of par value of total stock at beginning of taxable year			
	EXCLUDE—		
	Borrowed Capital		
	DEDUCT—		
	Inadmissible Assets — % to be deducted equals inadmissibles divided by total of admissibles and inadmissibles		

87.—Assets Included in Invested Capital.

Assets which may be included in invested capital are:

- (1) Actual cash bona fide paid in for stock or shares;
- (2) Cash value of tangible property paid in for stock or shares at the time of such payment, but in no case to exceed the par value of the original stock or shares specifically issued therefor, unless it is shown to the satisfaction of the Commissioner that the actual cash value of such property was really and substantially in excess of the par value of the stock or shares at the time paid in;
- (3) Paid-in or earned surplus or profits earned prior to the taxable year;
- (4) Intangible property bona fide paid in for stock or shares prior to March 3, 1917, in an amount not exceeding either the actual cash value of such property at the time paid in or the par value of the stock or shares issued therefor or in the aggregate not exceeding 25 per cent of the par value of the total stock or shares of the corporation outstanding on March 3, 1917, whichever is lowest.
- (5) Intangible property bona fide paid in for stock or shares on or after March 3, 1917, in an amount not exceeding either the actual cash value of the property at the time paid in or the par

value of the stock or shares issued therefor or in the aggregate not exceeding 25 per cent of the par value of the total stock or shares of the corporation outstanding at the beginning of the taxable year, whichever is lowest.

In no case shall the value of intangible property paid in for stock or shares, whether paid in prior to or subsequent to March 3, 1917 (the date of inception of the first Excess Profits Tax Act), exceed 25 per cent of the par value of the total stock or shares of the corporation outstanding at the beginning of the taxable year.

88.—Tangible and Intangible Property.

The term "tangible property" means stocks, bonds, notes and other evidences of indebtedness, bills and accounts receivable, leaseholds and other property other than intangible property. For the purposes of the excess profits tax, the par value of stock or shares shall, in the case of stock or shares issued at a nominal value or having no par value, be deemed to be the fair market value as of the date or dates of issue of such stock or shares. The term "intangible property" means patents, rights, secret processes and formulae, good will, trade-marks, trade brands, franchises and other like property.

Installment subscription payments received by a corporation for its stock may be treated as invested capital from the date on which they were received. Intangible property acquired for tangible property must be taken into account at its value at the date of acquisition, to be measured by the then fair market value of the tangible property exchanged therefor.

Valuation of patents for the purpose of invested capital is to be determined by contemporaneous stock market quotations rather than by resolution of the board of directors or later appraisals. Invested capital should not be reduced by the value of expired patents. The value of patents for which stock was issued must be measured by the cash consideration paid therefor by the incorporators of the company just prior to incorporation.

Good will, to be allowed as invested capital, must be acquired by direct purchase. It can not be determined by a collateral transaction. Values claimed for "contracts, brands and good will" can not be allowed as invested capital when it is not conclusively shown that such values represent paid-in capital.

89.—Change of Ownership of Assets.

In the case of the reorganization, consolidation or change of ownership of a trade or business, or change of ownership of property, after March 3, 1917, if an interest or control in such trade or business or property of 50 per cent or more remains in the same persons, or any of them, then no asset transferred or received from the previous owner shall for the purpose of determining invested capital be allowed a greater value than would have been allowed under the statute in computing the invested capital of such previous owner if such asset had not been so transferred or received. If such previous owner was not a corporation, then the value of any asset so transferred or received shall be taken at its cost of acquisition (at the date when acquired by such previous owner) with proper allowance for depreciation, impairment, betterment or development, but no addition to the original cost shall be made for any charge or expenditure deducted as expense or otherwise on or after March 1, 1913, in computing the net income of such previous owner for purposes of taxation.

90.—Liberty Bonds.

Liberty bonds of all issues shall be included in invested capital if purchased with profits or surplus earned prior to the taxable year. Liberty bonds purchased with earnings of the taxable year cannot be included in invested capital.

91.—Stock Dividends.

The payment of a stock dividend has no effect upon the amount of invested capital. The distribution of a stock dividend is in effect a capitalization of current earnings or of earned surplus on hand at the beginning of the year. The capitalization of current earnings does not increase the invested capital, and the capitalization of surplus on hand at the beginning of the year does not decrease the invested capital.

An appreciation in good will and tangible property, determined by an appraisal, against which a stock dividend was issued, cannot be allowed as invested capital.

92.—Allocation of Dividends.

Any distribution made by a corporation during the first 60 days of any taxable year shall be deemed to have been made from earnings or profits accumulated during the preceding taxable year; but any distribution made during the remainder of the taxable year shall be deemed to have been made from earnings or profits of the current taxable year up to the date of distribution. If the books of the corporation do not show the amount of such earnings or profits, the earnings or profits shall be deemed to have been accumulated ratably over the accounting period within which the distribution was made.

This provision does not affect the rate of tax to be paid by the stockholder in the case of dividends paid in cash, or dividends paid in stock of a corporation other than the distributing corporation; but a cash dividend affects the determination of invested capital, for excess profits tax purposes, of the dividend-paying corporation. In other words, this provision of the law does not apply to the recipient of dividends either in cash or stock, but it affects only the distributing corporation in the computation of its invested capital. (*Repealed, effective January 1, 1922.*)

93.—Paid-In Surplus.

Tangible property paid in for stock shall not be valued in excess of the par value of the stock specifically issued therefor unless the actual cash value of such tangible property at the time paid in is shown to the satisfaction of the Commissioner to have been clearly and substantially in excess of such par value, in which case such excess shall be treated as paid-in surplus. The Commissioner shall keep a record of all cases in which tangible property is included in invested capital at a value in excess of the stock or shares issued therefor, containing the name and address of each taxpayer, the business in which engaged, the amount of invested capital and net income shown by the return, the value of the tangible property at the time paid in, the par value of the stock or shares specifically issued therefor, and the amount included under this paragraph as paid-in surplus.

In illustration of paid-in surplus, assume that a lumber concern set up timber holdings on December 31, 1900, at an estimated valuation of 100,000,000 feet at \$5 per thousand feet—\$500,000—but it has subsequently been proven that the tract contained over

FEDERAL INCOME TAXES FOR 1921

150,000,000 feet. The company will not be permitted to correct the valuation as of December 31, 1909, or as of March 1, 1913, and neither will the surplus be permitted to be included as invested capital for the purpose of determining the excess profits tax. The fair market value of the timber as of December 31, 1909, or as of March 1, 1913, has no bearing on the invested capital of the company. The surplus embracing the additional value ascertained as the result of the re-valuation of capital assets may not be included in invested capital for excess profits tax purposes. The original value must be used under the circumstances.

The excess of the actual value over the purchase price of property purchased at a bargain is not paid-in surplus.

94.—Inadmissible Assets.

There shall be deducted from invested capital that proportion of the total assets which the inadmissible assets is of the admissible and inadmissible assets held during the taxable year. If a corporation owns inadmissible assets (such as stocks, municipal bonds, etc., the dividends or interest upon which are not subject to the income tax), and some of them are sold or otherwise disposed of, the proceeds being included in net income, then a corresponding amount of the capital invested in such assets shall be included as invested capital and need not be deducted.

Where all or a part of the interest derived from inadmissible assets is in effect included in net income because the interest paid on indebtedness incurred or continued to purchase or carry such assets may not be deducted from gross income, in such a case a corresponding part of the capital invested in such assets shall be deemed an admissible asset. In this case (the corporation is actually paying a tax upon the income received from inadmissible assets because of the deduction of interest being limited), a corresponding part of the capital invested in such inadmissible assets shall be included in invested capital and need not be deducted. Bonds issued by Porto Rico, Hawaii and the Philippine Government are inadmissible assets.

95.—LIMITATION OF TAX.

The excess profits tax is subject to the limitation that the 1921 tax shall in no case be more than 20 per cent of the amount of the net income in excess of \$3,000 and not in excess of \$20,000 plus 40 per cent of the amount of the net income in excess of \$20,000. This limitation does not apply in the case of income from Government contracts. The limitation is applied within very narrow limits.

96.—COMPUTATION OF TAX: CORPORATIONS.

In order to simplify the interpretation of the method of computing the tax, practical illustrations are given in subsequent paragraphs showing the method of calculation, step by step, with each progression plainly indicated.

It will be necessary to compute the excess profits tax before computing the corporation (income) tax, as the amount paid in profits tax is deducted from the net income before computing the corporation normal tax. Excess profits means the profits in excess of a net return of 8 per cent on the invested capital for the taxable year. In addition there is a specific exemption of \$3,000. If the corporation earned less than \$3,000 during the taxable year, it is exempt from this tax.

PART IV—CORPORATIONS

97.—Corporation Paying Under Both Brackets.

Corporation A has an invested capital for 1921 of \$300,000 and a net income of \$150,000.

Original invested capital	-----	\$250,000
Capital added in 1921	-----	50,000
Total invested capital for 1921	-----	\$300,000
Net income for 1921	-----	150,000

First Bracket (Excess Profits Tax)

20 per cent on invested capital of \$300,000	-----	\$60,000
Deduct:		
8 per cent on invested capital of \$300,000	-----	\$24,000
Specific exemption	-----	3,000

Total credits ----- 27,000

Amount taxable in first bracket	-----	33,000
20 per cent of \$33,000, or tax in first bracket	-----	\$6,600

Second Bracket (Excess Profits Tax)

Net income for 1921	-----	\$150,000
20 per cent on invested capital of \$300,000	-----	60,000

Amount taxable in second bracket	-----	90,000
40 per cent of \$90,000, or tax in second bracket	-----	36,000

Total of excess profits tax ----- **\$42,600**

Normal (Income) Tax

Net income for 1921	-----	\$150,000
---------------------	-------	-----------

Deduct:		
Excess profits tax	-----	\$42,600
Specific exemption	-----	0,000

Total credits ----- 42,600

Amount subject to normal tax	-----	\$107,400
10 per cent of \$107,400, or normal tax	-----	10,740

Total tax to be paid by Corporation A ----- **\$53,340**

98.—Corporation Paying Under First Bracket.

Corporation B has an invested capital for 1921 of \$50,000 and a net income of \$10,000.

Invested capital for 1921	-----	\$50,000
Net income for 1921	-----	10,000

First Bracket (Excess Profits Tax)

20 per cent on invested capital of \$50,000	-----	\$10,000
Deduct:		
8 per cent on invested capital of \$50,000	-----	\$4,000
Specific exemption	-----	3,000

Total credits ----- 7,000

Amount taxable in first bracket	-----	3,000
20 per cent of \$3,000, or tax in first bracket	-----	\$600

FEDERAL INCOME TAXES FOR 1921

Second Bracket (Excess Profits Tax)		
Net income for 1921	\$10,000	
20 per cent on invested capital of \$50,000	10,000	
Amount taxable in second bracket	0	
40 per cent of \$0, or tax in second bracket		0
Total of excess profits tax		\$600
Normal (Income) Tax		
Net income for 1921	\$10,000	
Deduct:		
Excess profits tax	\$600	
Specific exemption	2,000	
Total credits	2,600	
Amount subject to normal tax	\$7,400	
10 per cent of \$7,400, or normal tax		740
Total tax to be paid by Corporation B		\$1,340

99.—Corporation Paying Under Second Bracket.

Corporation C has an invested capital for 1921 of \$15,000 and a net income of \$4,500.		
Invested capital for 1921	\$15,000	
Net income for 1921	4,500	

First Bracket (Excess Profits Tax)		
20 per cent on invested capital of \$15,000	\$3,000	
Deduct:		
8 per cent on invested capital of \$15,000	\$1,200	
Specific exemption	3,000	
Total credits	4,200	
Amount taxable in first bracket	0	
20 per cent of \$0, or tax in first bracket		0

Note.—Since the credits amount to \$4,200, which exceed \$3,000 (20% on invested capital) by \$1,200, Corporation C has the right to deduct \$1,200 in the second bracket in addition to the usual 20 per cent on invested capital.

Second Bracket (Excess Profits Tax)		
Net income for 1921	\$4,500	
20 per cent on invested capital of \$15,000	\$3,000	
Additional	1,200	
Total credits	4,200	
Amount taxable in second bracket	\$300	
40 per cent of \$300, or tax in second bracket		\$120
Total of excess profits tax		\$120

PART IV—CORPORATIONS

Normal (Income) Tax		
Net income for 1921	\$4,500	
Deduct:		
Excess profits tax	\$120	
Specific exemption	2,000	
Total credits	2,120	
Amount subject to normal tax	\$2,380	
10 per cent of \$2,380, or normal tax		\$238
Total tax to be paid by Corporation C		\$358

100.—Corporation Paying No Excess Profits Tax.

Corporation D has an invested capital for 1921 of \$25,000 and a net income of \$5,000.		
Invested capital for 1921	\$25,000	
Net income for 1921	5,000	

First Bracket (Excess Profits Tax)		
20 per cent on invested capital of \$25,000	\$5,000	
Deduct:		
8 per cent on invested capital of \$25,000	\$2,000	
Specific exemption	3,000	
Total credits	5,000	
Amount taxable in first bracket	0	
20 per cent of \$0, or tax in first bracket		0

Second Bracket (Excess Profits Tax)		
Net income for 1921	\$5,000	
20 per cent on invested capital of \$25,000	5,000	
Amount taxable in second bracket	0	
40 per cent of \$0, or tax in second bracket		0
Total of excess profits tax		0

Normal (Income) Tax		
Net income for 1921	\$5,000	
Deduct:		
Excess profits tax	\$ 0	
Specific exemption	2,000	
Total credits	2,000	
Amount subject to normal tax	\$3,000	
10 per cent of \$3,000, or normal tax		\$300
Total tax to be paid by Corporation D		\$300

FEDERAL INCOME TAXES FOR 1921

101.—Corporation Paying Under the Limitation of the Amount on the Excess Profits Tax.

Corporation E has an invested capital for 1921 of \$30,000 and a net income of \$120,000.
 Invested capital for 1921----- \$30,000
 Net income for 1921----- 120,000

First Bracket (Excess Profits Tax)

20 per cent on invested capital of \$30,000----- \$6,000
 Deduct:
 8 per cent on invested capital of
 \$30,000----- 2,400
 Specific exemption ----- 3,000
 Total credits ----- 5,400
 Amount taxable in first bracket----- \$600
 20 per cent of \$600, or tax in first bracket----- \$120

Second Bracket (Excess Profits Tax)

Net income for 1921----- \$120,000
 20 per cent on invested capital of \$30,000----- 6,000
 Amount taxable in second bracket----- \$114,000
 40 per cent of \$114,000, or tax in second bracket----- 45,600
 Total of excess profits tax----- \$45,720

The total excess profits tax shall not exceed 20 per cent of that part of the net income represented by the difference between \$3,000 and \$20,000, or \$17,000 plus 40 per cent of the net income in excess of \$20,000 which in this case is \$100,000.

Computing the tax according to this provision, we have:

20 per cent of \$17,000----- \$3,400
 40 per cent of \$100,000----- 40,000
 Total----- \$43,400

Since this amount is less than the amount of the excess profits tax computed in the ordinary manner, we have as the excess profits tax ----- \$43,400

Normal (Income) Tax

Net income for 1921----- \$120,000
 Deduct:
 Excess profits tax----- \$43,400
 Specific exemption ----- 0,000
 Total credits ----- 43,400
 Amount subject to normal tax----- \$76,600
 10 per cent of \$76,600, or normal tax----- \$7,660
 Total tax to be paid by Corporation E----- 51,060

PART IV—CORPORATIONS

102.—Comparison of Tax to Be Paid by an Individual and a Corporation.

It is difficult to make a comparison of this kind, as the deductions, credits and exemptions for normal and surtax of individuals are different from those of corporations for the normal and excess profits tax. But assume that an individual has an income of \$150,000 upon which he pays both normal and surtax, and operates with a capital of \$600,000.

Normal Tax

Net income ----- \$150,000
 Deduct:
 Credits ----- \$6,000
 Specific exemption ----- 2,000
 Total credits ----- 8,000
 Amount on which normal tax is computed----- \$142,000
 \$4000, at 4 per cent----- \$160
 \$138,000, at 8 per cent----- 11,040
 Total normal tax----- \$11,200
 Surtax
 Net income subject to surtax----- \$150,000
 Total surtax ----- 49,510
 Total tax ----- \$60,710

By reference to the illustration showing the amount of tax of Corporation A paying under both brackets, having a net income of \$150,000 and invested capital of \$300,000, it will be seen that the corporation pays much less tax than the above individual although the said taxpayer operates with an invested capital twice as large as that of the corporation. (See paragraph 26.)

103.—FORMULAE FOR COMPUTING EXCESS PROFITS TAX.

In the following formulae "C" represents invested capital and "I" represents Net Income.

If "C" does not exceed \$25,000, the excess profits tax equals 40 per cent of "I" less 3.2 per cent of "C" less \$1,200.

If "C" exceeds \$25,000, the excess profits tax equals 40 per cent of "I" less 5.6 per cent of "C" less \$600.

If "I" is less than 20 per cent of "C," the excess profits tax equals 20 per cent of "I" less 1.6 per cent of "C" less \$600.

104.—Maximum Tax Under Section 302.

If "I" does not exceed \$20,000, the maximum tax equals 20 per cent of "I" less \$600.

If "I" exceeds \$20,000, the maximum tax equals 40 per cent of "I" less \$4,600.

APPENDIX A

DATA SHEET

Used in the Preparation of Individual Income Tax Returns
(Paragraph numbers indicate where subject matter is treated in booklet)

TAXABLE INCOME

Income from—	Amount
Business (Par. 2)	
Building	
Garage	
Hotel	
Laundry	
Livery	
Manufacturing	
Mining	
Restaurant	
Storage	
Trading	
Professions (Par. 2)	
Sales (Par. 2)	
Crops	
Livestock	
Manufactured products	
Merchandise	
Products mined	
Services rendered, not salaries (Par. 2)	
Transportation service rendered (Par. 2)	
<hr/>	
Income from—	
Service rendered (Par. 2)	
Bonuses	
Commissions	
Compensation for job done and work, labor or service performed	

APPENDIX—A

	Amount
Director's fees	
Fees	
Military or naval service (Par. 7)	
Pensions, private	
Salaries	
United States civil pensions	
Wages	
<hr/>	
Income from—	
Fiduciaries (Par. 62)	
Partnerships (Par. 26, 63)	
Personal service corporations (Par. 26, 64)	
<hr/>	
Profits from—	
Exchange of property (Par. 4)	
Sales (Par. 2, 3)	
Bonds	
Buildings	
Business real estate	
Home	
Land	
Miscellaneous property, not in business	
Property acquired under a will or by inheritance	
Property received as a gift	
Securities	
Stocks	
<hr/>	
Income from—	
Rents (Par. 2)	
Royalties (Par. 2)	
Lease of mines, oil and gas wells, or timber	
Use of copyrights	
Use of patents	

FEDERAL INCOME TAXES FOR 1921

Income from—	Amount
Discount (Par. 2)-----	-----
Interest (Par. 2)	
Bank deposits -----	-----
Domestic corporation bonds-----	-----
Foreign corporation bonds-----	-----
Foreign government bonds-----	-----
Money lent -----	-----
Mortgages -----	-----
Notes -----	-----
Securities -----	-----
Life endowment or annuity insurance, in excess of premiums paid (Par. 7)-----	-----
Losses or bad debts recovered-----	-----
Property acquired by gift or under a will or by inheritance (Par. 7)-----	-----

Income from—	
Dividends (Par. 5, 23)	
Domestic corporations, not subject to normal tax -----	-----
Foreign corporations, not subject to normal tax -----	-----

Income from—	
Interest (Par. 7, 8)	
Liberty bonds in excess of exemptions allowed -----	-----
United States obligations-----	-----
War Finance Corporation bonds, in excess of exemptions allowed-----	-----
War Savings Certificates in excess of ex- emptions allowed -----	-----

APPENDIX—A

DEDUCTIONS	Amount
Amortization (Par. 18)	
War equipment -----	-----
Bad debts (Par. 17)	
Addition to a reserve for bad debts-----	-----
Charged off in part-----	-----
Reserve for bad debts-----	-----
Worthless and charged off-----	-----
Depletion (Par. 19)	
Mines, oil and gas wells, and timber-----	-----
Depreciation (Par. 18)	
Copyrights -----	-----
Franchises -----	-----
Patents -----	-----
Wear, tear, depreciation and obsolescence of property -----	-----
Donations (Par. 20)	
Donations and gifts, 15% of net income-----	-----
Expenses (Par. 10)	
Automobile expenses, if used in business-----	-----
Bonuses to employees-----	-----
Fire insurance paid on business property-----	-----
Incidental expenses necessary for the con- duct of the business-----	-----
Pay of employees-----	-----
Purchase of tools and implements-----	-----
Rents paid on business property-----	-----
Rent paid for store-----	-----
Repairs to business property-----	-----
Salaries paid -----	-----

FEDERAL INCOME TAXES FOR 1921

	Amount
Traveling expenses in connection with business and trade	-----
Wages of hired help	-----
Interest (Par. 11)	
Discount paid on loans	-----
Interest paid on business loans	-----
Interest paid on personal loans	-----
Losses (Par. 13)	
Connected with trade, business or profession	-----
From the sale of securities	-----
In excess of insurance (a) from theft; (b) from fire; (c) from storm; (d) from shipwreck; (e) from casualty	-----
On transactions entered into for profit, not in business	-----
Taxes (Par. 12)	
Automobile license	-----
Personal taxes on property not used in business or profession	-----
Real estate taxes on home	-----
State, county and local taxes and assessments for 1921, except local improvements	-----
State income taxes	-----
Taxes on business property	-----

CREDITS

Credits Against Net Income (Par. 23)	
Credit for dependents	-----
Dividends	-----
Interest on United States obligations	-----
Specific (personal) exemption	-----
Credit Against Tax	
Foreign taxes (Par. 24)	-----
Amount withheld on tax-free covenant bonds (Par. 25)	-----

APPENDIX—A

EXEMPT INCOME

(Par. 7)	Amount
Amount	
Of tax withheld at source in the case of tax-free covenant bonds (Par. 25)	-----
Received under the Vocational Rehabilitation Act	-----
War Risk Insurance Act	-----
Compensation	
Received from a State or political subdivision thereof (Par. 2)	-----
Income	
From sources without the United States	-----
Interest	
On	
Federal farm loan bonds	-----
Liberty bonds, which is exempt by law	-----
Philippine, Porto Rico, Municipal and State bonds	-----
War Finance Corporation bonds, which is exempt by law	-----
War Savings Certificates, which is exempt by law	-----
Money and Property Acquired	
By gift, not as a consideration for services rendered	-----
Under a will or by inheritance	-----
Proceeds under	
Health and accident insurance contracts	-----
Life insurance contracts upon the death of the insured	-----
Life insurance, endowment and annuity contracts, not in excess of premiums paid in	-----
Workmen's Compensation Acts and damages received by suit or agreement on account of injuries or sickness	-----
Refund of premiums on endowment or annuity insurance	-----
Stock dividends (Par. 6)	-----

ITEMS NOT DEDUCTIBLE

Depreciation (Par. 18)	Amount
By life tenant.....	-----
On residence.....	-----
Expenses (Par. 22)	
Automobile expense, used for pleasure.....	-----
Commutation expenses.....	-----
Cost of new buildings, permanent improvements or betterments.....	-----
Fire insurance paid on residence.....	-----
Improvements and betterments adding to the value of the property.....	-----
Personal, living and family expenses.....	-----
Premiums on life insurance inuring to the benefit of taxpayer.....	-----
Premiums paid on own life insurance.....	-----
Rents paid on residence.....	-----
Repairs or restoration of property compensated for under the depreciation, wear and tear allowance.....	-----
Repairs to residence.....	-----
Traveling expenses, not business trip.....	-----
Interest (Par. 22)	
On indebtedness to purchase tax-exempt bonds and securities.....	-----
Taxes (Par. 12)	
Federal estate taxes.....	-----
Federal income taxes.....	-----
Foreign income and profits taxes claimed as a credit.....	-----
State inheritance taxes.....	-----
Taxes or assessments for local improvements.....	-----

APPENDIX B

LIST OF PRINCIPAL FORMS

(Used in the Return and Collection of Income and Profits Taxes)

- 46 —Claim for Refund. Taxes erroneously or illegally collected.
- 47 —Claim for Abatement. Taxes erroneously or illegally assessed.
- 47A—Claim for Credit. Taxes paid in excess.
- 1000 —Ownership Certificate. Tax to be paid at source.
- 1001 —Ownership Certificate. Tax not to be paid at source.
- 1001A—Ownership Certificate. Tax not to be paid at source. Foreign items.
- 1001B—Ownership Certificate used by individual nonresident alien owners of tax-free covenant bonds (claiming credits under Section 216).
- 1012 —Monthly Return of Normal Income Tax to be Paid at Source (Interest on Bonds and Other Similar Obligations of Domestic and Resident Corporations and Foreign Corporations Having a Paying Agent in United States).
- 1013 —Annual Return of Normal Income Tax to be Paid at Source (Same Explanation as Form 1012).
- 1017 —Application for License for Collection of Income from Foreign Countries (Foreign Items).
- 1040 —Individual Income Tax Return. For Net Incomes of More than \$5,000.
- 1040A—Individual Income Tax Return. For Net Income of Not More than \$5,000.
- 1040F—Schedule of Farm Income and Expenses.
- 1041 —Fiduciary Income Tax Return.
- 1042 —Annual Return of Normal Income Tax to be Paid at Source (Salaries, Wages, Rent, etc., Paid to Nonresident Alien Individuals and Foreign Corporations).
- 1053 —Substitute Certificate—Tax Not to be Paid at Source (Interest on Bonds and Other Similar Obligations of Domestic and Resident Corporations).
- 1059 —Substitute Certificate—Tax to be Paid at Source (Interest on Bonds and Other Similar Obligations, etc.).
- 1065 —Partnership and Personal Service Corporation Income Tax Return.
- 1078 —Certificate of Alien Claiming Residence in the United States.

FEDERAL INCOME TAXES FOR 1921

- 1087 —Ownership Certificate. Disclosing Actual Owner of Stock (For Use of Foreign Principal to Disclose Actual Ownership of stock of Domestic Corporation Registered in Name of Representative in United States).
- 1096 —Annual Information Return of Payments, etc., of \$1,000 or More.
- 1096A—Monthly Information Return of Payments of Interest on Bonds of Domestic and Foreign Corporations and Countries, and Dividends on Stock of Foreign Corporations.
- 1096B—Annual Information Return. Payments of Interest, etc. (same as 1096A).
- 1098 —Report of Income Paid to Nonresident Alien Individuals and Foreign Corporations.
- 1099 —Report of Income of \$1,000 or More Paid during the Calendar Year.
- 1114 —Application for Permission to Establish a Replacement Fund.
- 1115 —Claim by Nonresident Alien Individual for Benefit of Personal Exemption and Credit for Dependents.
- 1116 —Claim for Credit for Foreign Taxes Paid by Individuals.
- 1117 —Bond pending determination of Credit for Foreign Income and Profits Taxes under Section 222(b) of Revenue Act of 1918.
- 1118 —Claim for Credit for Foreign Taxes Paid by Domestic Corporations.
- 1119 —Bond pending determination of Credit for Foreign Income and Profits Taxes under Section 238(a) of Revenue Act of 1918.
- 1120 —Corporation Income and Profits Tax Return.
- 1120S—Government Contracts Profits Tax Return.
- 1122 —Information Return of Subsidiary or Affiliated Corporation.
- 1125 —Schedule of Taxable Interest on Liberty Bonds.
- 1126 —Certificate of Inventory.

FEDERAL INCOME TAXES FOR 1921

- 1087 —Ownership Certificate. Disclosing Actual Owner of Stock (For Use of Foreign Principal to Disclose Actual Ownership of stock of Domestic Corporation Registered in Name of Representative in United States).
- 1096 —Annual Information Return of Payments, etc., of \$1,000 or More.
- 1096A—Monthly Information Return of Payments of Interest on Bonds of Domestic and Foreign Corporations and Countries, and Dividends on Stock of Foreign Corporations.
- 1096B—Annual Information Return. Payments of Interest, etc. (same as 1096A).
- 1098 —Report of Income Paid to Nonresident Alien Individuals and Foreign Corporations.
- 1099 —Report of Income of \$1,000 or More Paid during the Calendar Year.
- 1114 —Application for Permission to Establish a Replacement Fund.
- 1115 —Claim by Nonresident Alien Individual for Benefit of Personal Exemption and Credit for Dependents.
- 1116 —Claim for Credit for Foreign Taxes Paid by Individuals.
- 1117 —Bond pending determination of Credit for Foreign Income and Profits Taxes under Section 222(b) of Revenue Act of 1918.
- 1118 —Claim for Credit for Foreign Taxes Paid by Domestic Corporations.
- 1119 —Bond pending determination of Credit for Foreign Income and Profits Taxes under Section 238(a) of Revenue Act of 1918.
- 1120 —Corporation Income and Profits Tax Return.
- 1120S—Government Contracts Profits Tax Return.
- 1122 —Information Return of Subsidiary or Affiliated Corporation.
- 1125 —Schedule of Taxable Interest on Liberty Bonds.
- 1126 —Certificate of Inventory.

SINCE the founding of our organization in Boston over 40 years ago we have been steadily developing our facilities for the handling of all classes of investments. Today we have fifteen offices located in the principal cities of the country, each one in charge of a resident partner or our own manager, and connected by our private wire system. We offer a complete service to investors.

Our offerings of investment securities are carefully selected to meet the requirements of both individual and institutional buyers and include United States Government, Municipal, Railroad, Industrial and Public Utility bonds, together with such Foreign Issues as find a ready market in this country.

We invite your inquiries.

PAINE, WEBBER & COMPANY

Established 1880

BOSTON

82 Devonshire St.

NEW YORK

25 Broad St.

CHICAGO

209 So. LaSalle St.

PHILADELPHIA

ALBANY

HARTFORD

WORCESTER

SPRINGFIELD

PROVIDENCE

MINNEAPOLIS

ST. PAUL

DULUTH

MILWAUKEE

DETROIT

GRAND RAPIDS

**END OF
TITLE**